A COLLECTION

OF

STATUTES RELATING TO INDIA.

BENGAL SE

IN TWO VOLUMES.

VOL. I.

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PREFACE.

THE present work contains all the English Statutes passed before 1726 which can possibly be held to be in force within the Presidency-towns and Rangoon. It also contains such of the Statutes relating to India, passed between that year and 1881, as still remain unrepealed. The first edition of the older Statutes contained in the present work was published in 1874. Since then some of the difficulties mentioned in the preface to that edition have been removed by the decision of the Judicial Committee of the Privy Council that the English laws of maintenance and champerty are not of force as specific laws in India,[a] and by the action of the Indian Legislature in expressly repealing the Lord's Day Act[b] and the Statutes relating to Distresses and Replevin.[c] There still, however, is room for doubt as to which of the Statutes enacted before 1726 are in force in the Presidency-towns, and as to whether some modern repealing and amending Statutes apply to British India. I see no practical way of laying these doubts save passing an Act to declare that certain of these Statutes (specifying them in a schedule) shall be deemed to be in force in those towns; that all other Statutes passed before that year shall be repealed, so far as they affect British India; and that no Statute passed before 1861 shall be deemed to extend to any part of India merely because it repeals, amends or modifies a Statute applying to any part of this country.

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[a] *Ram Coomar Coondoo* v. *Chunder Canto Mookerjee*, Law Rep. 4 Indian Appeals, 23.
[b] See Act X of 1877, section 3, and the first schedule.
[c] See Act I of 1875, section 2.

The Bill for this purpose might run as follows :—

A Bill to declare the Statutes in force in the Presidency Towns.

Preamble.

WHEREAS doubts exist as to what Acts of Parliament are in force in the Towns of Calcutta, Madras and Bombay, and it is expedient to remove such doubts; It is hereby enacted as follows :—

Statutes declared to apply to the Presidency Towns.

1. The enactments specified in the schedule hereto annexed (being Statutes or parts of Statutes passed before the year 1727) shall be deemed to apply, so far as local circumstances admit, to all places and persons within the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William, Madras and Bombay.

Repeal of other Statutes passed before 1727.

2. All other Statutes passed before the said year 1727 are hereby repealed so far as they affect British India.

Provided that the repeal by this Act of any enactment shall not affect any Statute, Act or Regulation in which such enactment has been applied, incorporated or referred to:

Savings.

3. Nothing in this Act shall—

(*a*) affect the validity or invalidity of any thing already done or suffered, or any indemnity already granted, or any right or title already acquired or accrued, or any remedy or proceeding in respect thereof, or the proof of any past act or thing;

(*b*) affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognised or derived, by, in or from any enactment hereby repealed;

(*c*) give validity to any transaction which, if it had occurred before the passing of this Act, would have been held invalid on the ground of its breeding litigation or of being otherwise unrighteous, unconscientious, or against public policy;

(*d*) provide or restore any jurisdiction, office, custom, privilege, restriction, exemption, usage or practice not now existing or in force;

(*e*) operate as an implied repeal of any enactment;

(*f*) affect the laws of inheritance, partition, succession and contract as administered to Hindús, Muhammadans, and Buddhists, or

(*g*) affect the laws of marriage as administered to persons not being Christians.

4. No Statute passed in or after the said year 1727 shall be deemed to apply to any part of British India, unless it expressly or by necessary implication extends thereto; and no Statute passed before the year 1861 shall be deemed to extend by necessary implication to any part of British India merely because it repeals, amends or modifies the whole or any part of a Statute which applies to any part of British India.

When Statutes passed in or after 1727 apply.

SCHEDULE.

(*See Section 1.*)

[To be settled in communication with the Presidency High Courts.]

A Bill resembling the above draft was prepared by me in 1874, introduced into the Legislative Council by Sir A. Hobhouse, and recommended for passing by the Select Committee to which it was referred. Its further progress was, however, stopped at the desire of the then Secretary of State for India.

The present work concludes the undertaking commenced in 1868, namely, to expurgate the obsolete enactments on the Indian Statute-book and to separate from the laws applicable to the whole country the local laws of British India, and arrange those laws according to their local application. For the former purpose, the Legislative Department of the Government of India, with the assistance of Mr. F. Cockerell and of Mr. (now Sir Charles) Hobhouse, prepared, and the Council of the Governor General passed, six repealing enactments (VIII of 1868, XIV of 1870, XXIX of 1871, XII of 1873, XVI of 1874 and XII of 1876), which swept away a vast mass of the matter that had become obsolete during the last eighty-eight years. For the latter purpose, I, with the assistance of Mr. Heysham, the zealous and efficient Registrar in the Legislative Department, prepared and passed through the press the present two volumes of the Statutes relating to India, three volumes of the general Acts, that is, unrepealed Acts of the Governor General in Council extending or extendible to the whole of British India, passed between November 1834 and June 1876, and eleven volumes of the unrepealed local Regulations and Acts relating respectively to the Presidencies of Madras and

Bombay, the Lower Provinces, the North-Western Provinces, the Panjáb, Oudh, the Central Provinces, British Burma, Coorg and, lastly, Ajmer and Merwára. It seems unnecessary to have special volumes for the Chief Commissionerships of Assam and the Andaman and Nicobar Islands: for the local laws relating to Assam are almost all to be found in the Lower Provinces Code, and those relating to the Andaman and Nicobar Islands are too few[a] in number to render it necessary to collect them.

To use the words of one of my distinguished predecessors,[b] the advantages of such an operation are "so great and obvious that he did not think it necessary to dwell on them." The real bulk of the law is shown to be far less than is generally supposed: people are no longer at a loss where to look for the Act or Regulation which they needed; and (as all obsolete matter is repealed and omitted) when they find the enactment which they seek, they may be sure that every part of it is operative. Besides this, money and space are saved, for, as a rule, all the written law that any official or lawyer, say, in the Panjáb, Oudh or Burma requires, is the general Acts and the slender volume of local laws in force in his own Province. To the *penetralia* of all these Acts, Regulations and Statutes a guide will be found in the elaborate Index which has recently been prepared and published by Mr. Jacob, of the Bengal Civil Service, who was employed for that purpose for about a year by the Legislative Department.

WHITLEY STOKES.

SIMLA,
18th July, 1881.

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[a] They are Act XXVIII of 1870 (*Committals to the High Court, Fort William*), Act IX of 1879 (*Coast-lights*), and Regulation III of 1876, for the peace and government of the islands.

[b] Sir James Stephen, in a speech made in the Legislative Council on the 25th February, 1870.

PREFACE

to the first edition of the Older Statutes relating to India.

THE present volume contains all the English Statutes passed before 1726 which can possibly be of practical utility within the Presidency-towns. A sequel is intended to contain such of the Statutes relating to India, passed between that year and 1874, as will remain unrepealed after the Statutes relating to Indian Government have been consolidated somewhat in the manner proposed by the late Mr. Merivale.[a]

It is well settled that, on the establishment of Mayors' Courts in Calcutta, Madras and Bombay under the charter of 13 Geo. I, the Statute-law in force in England in the year 1726 was introduced into the Presidencies so far as it was applicable to local circumstances.[b]

Under the qualification contained in the last part of this proposition, large classes of Statutes will obviously be excluded. The Statutes, for instance, dealing with the subjects of Advowsons, Bankruptcy, Bastardy, Clergy, Commons, Dilapidations, Elections, Excise, Forests, Police, Poor-relief, Sewers, Tithes and the qualification of Sheriffs were clearly framed with reference to the special conditions of England, and could never be deemed applicable to any part of India. Other Statutes, such as those relating to Coroners, Crimes, Executors, Jurors, Justices of the Peace, Lotteries, Oaths, Pleading and Riotous Assemblies,

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[a] A Bill for this purpose prepared by Mr. Merivale, recast by Sir James Stephen, and twice revised by Sir A. Hobhouse and myself, has, apparently, been dropped. It consolidated 43 Statutes.

[b] See Clarke's Rules and Orders of the Supreme Court, Calcutta, 1829, preface, p. IV, *Doe d. Savage* v. *Bancharam Tagore*, Morton 72, per Chambers, J.: *Musleah* v. *Musleah*. Boulu. Rep. 240, per Colville, J. J.: *Padamani Dasi* v. *Jagadamba Dasi*, 3 Ben. L. R., O. C. J. 59: *Wilkinson* v. *Abbas Sircar*, ib. 98, 99, per Peacock, C. J.: *Manikji Mehervanji* v. *Rahimtulla Alubhai*, 1 Bomb. Appendix 1, per Sausse, C. J.: *Ranee Hurrosoondaree Dossee* v. *Raja Kistonath Roy*, cited 1 Hyde's Rep. 70. But as the Letters Patent of Charles II, in 1661, granted "that the Governor and his Council.....might have power to judge all persons..... in all causes, whether civil or criminal, *according to the Laws of the Kingdom of England*," it would be more correct to say that, ever since the establishment of the Mayors' Courts, the English Statutes in force in 1726 have been deemed in force in the Presidencies so far as they were applicable to local circumstances: see *Freeman* v. *Fairlie*, 1 Moo. I. A. Ca. 342: *Jebb* v. *Lefevre*, Clarke's Rules and Orders, etc., 56.

have been rendered by recent Indian legislation unnecessary and therefore inapplicable. But when we go beyond these classes of laws, and inquire, for example, whether the Statutes relating to maintenance and champerty are in force in Calcutta, we at once fall into doubt and difficulty. It is true that, in the absence of any declaration by the legislature, the Judges of the late Supreme Courts and those of the present High Courts have assumed the function of declaring what Statutes shall be deemed in force within the local limits of their ordinary original jurisdiction. But, in the first place, the Judges have made such declarations in comparatively few instances; in the second place, their decisions have not always been reported; thirdly, it may, with deference, be doubted whether their declarations are always right; and fourthly, even when they are certainly correct, the rulings of the Judges of one Supreme or High Court are not binding upon those of another.*

Even in cases where a Statute certainly operates in the Presidency-towns, it is not always clear whether it applies to all the inhabitants or only to Europeans. Thus, every one agrees that the Statutes of Elizabeth relating to fraudulent conveyances are in force in Calcutta, Madras and Bombay; and in Calcutta, the late Mr. Justice Norman (2 Ind. Jur. O. S. 7) held that they applied to Natives as well as to Europeans. But in Madras, Sir Adam Bittleston seemed to think, in a case reported in 6 Mad. H. C. Rep. 474, that they applied only to British subjects other than Hindús or Muhammadans.

The result is a great amount of uncertainty as to the Statute-law in force in the Presidency-towns, and this not merely in rare instances, but in matters of constant occurrence. Sir Lawrence Peel (for example) in an unreported case held that the Statutes relating to maintenance and champerty did not apply to India. Mr. Justice Phear (4 Beng. O. J. 1) and Mr. Justice Holloway (7 Madras, 143), on the contrary, hold that they do apply, at

* A list of the Statutes passed before 1726, and held not to apply to India, is given in Table A annexed to this preface.

least within the Presidency-towns. Peacock, C. J. (9 Suth. Cr. R. 243), held that champerty is not illegal in the mufassal. Scotland, C. J. (1 Madras, 153), admitting that the common and Statute-law as to maintenance and champerty did not apply to Natives, thought that the "general principles" upon which it rests might be so applied. For two days, again, the High Court in Madras has lately been occupied in discussing whether or not the sixth section of the Lord's Day Act (29 Car. II, cap. 7) applies to the Presidency-towns, and whether therefore a Muhammadan debtor could or could not be legally arrested on Sunday. The decisions of the Court of First Instance and of the Appellate Bench were conflicting, and as a further appeal is (I believe) pending, the question cannot yet be regarded as settled even in Madras, much less in Calcutta or Bombay. Do the Statutes of 52 Hen. III, 13 Edw. I, cap. 37, 1 & 2 Phil. & Mar., cap. 12, 17 Car. II, cap. 7, and 11 Geo. II, cap. 19, apply to distresses in the Presidency-towns for arrears of rent exceeding Rs. 1,000[a]? If not, what law is applicable to such distresses? Even so ordinary a matter as protesting an inland bill for non-payment is clouded with doubt. The Statute (9 Wm. III, c. 17) legalizing this practice has never been ruled to be in force in India; and, as it is in terms applicable only to bills drawn on or dated at places "in the kingdom of England, dominion of Wales or town of Berwick upon Tweed," it is quite possible that it may be held not to operate in this country.

This uncertainty is not confined to the Presidency-towns, for, under the Burma Courts Act (VII of 1872), the Recorder of Rangoon determines cases in which the parties are not Hindús, Muhammadans nor Buddhists in accordance with "the law administered by the High Court at Fort William in the exercise of its ordinary original civil jurisdiction;" and of this law, the English Statutes (whatever they may be) in force in Calcutta form an important element.

Distresses for arrears not exceeding Rs. 1,000 are provided for by the Small Cause Courts Acts, VII of 1847, IX of 1850, s. 89, and XXVI of 1864, s. 4. [Now see Act I of 1877.]

Moreover, the Statutes in force in the Presidency-towns (except of course where they have been modified by Indian legislation) seem to operate as a kind of personal law in the case of European vendors, purchasers, mortgagors, mortgagees, lessors or lessees of land anywhere in India outside the local limits. For Peel, C. J., in *Storm* v. *Homfray*, 1 Tayl. & Bell 333-4, ruled that "British subjects litigating in this Court [the late Supreme Court at Fort William] as to the title to immoveable property, *though situate in the mufassal*, must have their rights as to the subject-matter determined by the law of England, so far as it has been introduced here."

The doubts and difficulties above referred to have been brought very vividly before me while preparing for Government the edition of the Statutes in force in India, of which the first instalment is contained in the present volume; and it seems to me that this is clearly a case in which the Legislature, in consultation with the Judges of the High Courts, might usefully declare that certain of the Statutes (specifying them) passed before 1726 shall be deemed to be in force in the Presidency-towns, and that all other Statutes passed before that year shall be repealed so far as they affect British India. The necessary legislation might be effected either by a separate Bill, or by adding a section and schedule to the Laws Local Extent Bill* now before the Council. This would, I think, be more convenient than giving (as was done in the case of N. S. Wales by 9 Geo. IV, c. 83, s. 24) power to the Executive, with the advice of the Legislature, to declare whether any particular Statute extends to this country. Whichever of these suggestions is adopted, the collection contained in the present volume will probably be of use. It consists, as will be seen, of all the Statutes (except five Acts of no practical importance in this country) passed before 1726, which can possibly be deemed in force in the Presidency-towns; and references to all the reported decisions of the Judges as to whether a Statute is or is not in force in India will

* Now Act XV of 1874.

be found in notes[a] at the proper places or in the Table at p. xiii. Where the Revised Edition of the Statutes, London, 1870, differs with respect to years, statutes and chapters from Ruffhead's, Pickering's and other editions, the Revised Edition has been followed. Where a Statute is in Anglonorman or Latin, nothing but the translation in the Revised Edition has been given.

It will be seen that, of the 732 Statutes passed before 1726 and still in force in England, 75 appear to me to be (some certainly, others probably, the rest possibly) in force in the Presidency-towns and Rangoon.

If three Acts were passed by the Legislative Council, one dealing with maintenance and champerty, another abolishing the Sheriff or consolidating the law concerning that functionary, and a third extending the present law as to distresses for arrears not exceeding Rs. 1,000 to arrears exceeding that sum, the number of these Statutes might be reduced to 53.

Regarding the Statutes passed subsequently to 1726, there is less difficulty. Some have been expressly applied to India by Acts of the Indian Legislature.[b] As to the others, the rule is that none but the unrepealed Statutes expressly, or by necessary implication, extending to India are in force in any part of this country, see *Edwards* v. *Ronald*, 1 Knapp P. C. C. 259: *Bank of Hindústán* v. *Premchand Ráichand*, 5 Bombay O. C. J. 91. The authority on which the Indian Courts have refused to apply any of the other Statutes passed since the granting of the charter of George I is to be found in Calvin's case, 7 Rep. 1.[c] I know of no Statutes to which the doctrine, that usage is sufficient to extend an Act of Parliament to a colony (25 Geo. II, c. 6, s. 10, Forsyth's *Cases and Opinions*, p. 2), can be considered to apply in India.

Doubts may be raised as to how far some of the modern

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[a] These notes are marked with letters in parentheses. The notes marked with figures, asterisks and obelisks are taken from the Revised Edition of the Statutes.

[b] See Acts XIII of 1840, XIV of 1840 (both repealed), XXIV of 1841 and IX of 1842.

[c] See Clarke's Rules and Orders, Pref. IV. "It does not rest upon any one case, Calvin's or any other, however respectable that authority, but on the clearest grounds of law and good sense."—*Wyatt* v. *Rooplaul Mullick*, ib. 155, per Grant, J.

repealing and amending Statutes are in force in this country. Most of the Statutes in force in England in the year 1726 have been repealed by Statutes which in very few instances expressly apply to India. Do the repealing Acts operate here? Parliament (see 9 Geo. IV, c. 74, s. 125) and the Supreme Indian Legislature have more than once acted as if this question should be answered in the negative. On the other hand, the last Statute-law Revision Act (36 & 37 Vic., c. 91) declares that it "shall not extend to repeal any enactment so far as the same may be in force in any part of Her Majesty's Dominions out of the United Kingdom, except where otherwise expressed in the said schedule." This seems to shew that, in the opinion of Parliament, that Act would, in the absence of the declaration just quoted, have operated in British India. Does a modern Statute amending an ancient Statute in force in India extend to this country by necessary implication? For instance, the Habeas Corpus Act (31 Car. II, c. 2) applies to the Presidency-towns; but does the amending Act, 56 Geo. III, c. 100, apply also? In *Reg.* v. *Vaughan*, 5 Beng. 429, Phear, J., asserted that it did not; but Mr. Anstey, in *Ameer Khan's* case (6 Beng. 418), contended that it did; the point was not decided. Dwarris, 527, says that "Acts of Parliament altering other Acts in force in the Colonies are considered as themselves applying there." But he cites no authority for this proposition. It is merely the opinion of a respectable text-writer; and the Supreme Indian Legislature has at least in one instance (the enactment of so much of 19 & 20 Vic., c. 97, as modified the requirements of the Statute of Frauds as to the consideration for a guarantee) acted as if the opposite view were correct.

The decisions on this branch of the subject are almost all negative, *i. e.*, that such and such a Statute does not extend to this country. For convenience of reference they are collected in Table B.

W. S.

CALCUTTA,
25th April, 1874.

TABLE A.

Statutes passed before 1726 and held not to apply to India.

Year, reign and chapter.	Subject-matter.	Cases shewing non-application.
23 Hen. 8, c. 10	Conveyances to pious uses.	*Mayor of Lyons* v. *E. I. Company*, 1 Moo. I. A. Ca. 296. *Mitford* v. *Reynolds*, 1 Phill. 185, 192. See *Atty. Gen.* v. *Stewart*, 2 Mer. 143.
27 Hen. 8, c. 16	Inrolment of bargains and sales.	*Doe* d. *Savage* v. *Bancharam Tagore*, Morton ed. Montriou, 105.
1 Edw. 6, c. 14	Superstitious uses ...	*Atty. Gen.* v. *Vishvanáth Atmárám*, 1 Bomb. App. XV. *Das Merces* v. *Cones*, 2 Hyde 65. *Andrews* v. *Joakim*, 2 Beng. O. C. J. 148.
5 & 6 Edw. 6, c. 16	Buying and selling offices.	See *Rex* v. *Vaughan*, 4 Burr. 2500.
29 Char. 2, c. 7	Lord's Day Act, secs. 1 to 5.	Madras Appeal Suit No. 26 of 1873. [Since reported— *Param Shook Doss* v. *Rasheed Ood Dowlah Bahadoor and others*, 7 Mad. H. C. Rep. 285.]
8 Ann, c. 18 (c. 14, Ruff.)	Security of Rents. Frauds by tenants.	*Padamani Dasi* v. *Jagadamba Dasi*, 3 Beng. L. R. O. C. J. 59.
9 Ann, c. 19 (c. 14, Ruff.)	Gaming... ...	*Nobkissen's case*, Mort. 353, *Cullen* v. *Swinhoe*, ib. 354.
13 Anne, c. 15 (12 Anne, Stat. 2, c. 16, Ruff.)	Usury	Sir Hyde East's evidence, cited Fulton 414.
6 Geo. 1, c. 18	Bubble Act ...	*Horsely* v. *Cotton*, Morton 364.

TABLE B.

Statutes passed since 1726 and held not to apply to India.

Year, reign and chapter.	Subject-matter	Cases shewing non-application.
26 Geo. 2, c. 23	Clandestine marriages	*Maclean* v. *Cristall*, Perry Or. Ca. 75, 87.
14 Geo. 3, c. 48 c. 78 28 Geo. 3, c. 56	Insurance ...	*MacGregor* v. *Fergusson*, 1 Tayl. & Bell 378.
47 Geo. 3, sess. 2, c. 25.	Half-pay and pensions	Does not apply to assignments of pensions granted by E. I. Company, *Heald* v. *Hay*, 3 Giff. 467 : *Carew* v. *Cooper*, 4 Giff. 619.
56 Geo. 3, c. 100	Habeas corpus ...	*Reg.* v. *Vaughan*, 5 Beng. 418, 429.
6 Geo. 4, c. 16, s. 92.	Evidence of bankruptcy and assignment in England.	*Wyatt* v. *Rooploll Mullick*, Mort. 567 : *Clark* v. *Mullick*, 2 Moo. I. A. 263.
1 & 2 Wm. 4, c. 58.	Interpleader ...	*In re Hunt, &c.*, 1 Bomb. A. C. J. 259.
2 & 3 Wm. 4, c. 114.	Evidence of bankruptcy	*Wyatt* v. *Rooploll Mullick, Clark* v. *Mullick*, Supra.
4 & 5 Wm. 4, c. 85, s. 5.	Billeting soldiers ...	*Robinson* v. *Carey*, Bourke (O. C. J.) 405.
5 & 6 Wm. 4, c. 54.	Marriages within prohibited degrees.	Does not apply to East Indians born and domiciled in India, *Das Merces* v. *Cones*, 2 Hyde 65.
2 Vic., c. 11, s. 7	Lis pendens ...	*Kasim Shaw* v. *Unnodapersaud Chatterjee*, 1 Hyde 160, 167.
2 & 3 Vic., c. 29	Attachment of bankrupt's property.	*In re Hunt, &c.*, 1 Bomb. A. C. J. 259.
c. 54	Infants	*Re Holmes*, 1 Hyde 99 : *Re Tayheb Ally*, 2 Hyde 64.

Statutes passed since 1726 and held not to apply to India—(concluded).

Year, reign and chapter.	Subject-matter.	Cases shewing non-application.
3 & 4 Vic., c. 65, s. 6.	Admiralty jurisdiction to entertain causes for necessaries supplied to foreign ships.	*Hormasji* v. *Ukarji*, 5 Bomb. O. C. J. 64.
8 & 9 Vic., c. 109	Wagers	*Ramloll Thackoorseydass* v. *Soojunmull*, 4 Moo. I. A. 339.
12 & 13 Vic., c. 106, s. 133.	Attachments not affected by bankruptcy.	*In re Hunt, &c.*, 1 Bomb. A. C. J. 259.
17 & 18 Vic., c. 125, s. 20.	Exemption from taking oaths.	*P. Valu Mudali* v. *Sowerby*, 2 Mad. H. C. Rep. 246.
24 Vic., c. 10	Admiralty ...	*Hormasji* v. *Ukarji*, 5 Bomb. O. C. J. 64.
25 & 26 Vic., c. 89, s. 87.	Stay of suits against Company after order for winding up.	*Bank of Hindustan* v. *Premchand Raichand*, 5 Bomb. O. C. J. 92.

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A COLLECTION

OF

STATUTES IN FORCE IN INDIA.

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13 EDWARD I. A. D. 1285.

First, concerning lands that many times are given upon condition, that is to wit, where any giveth his land to any man and his wife, and to the heirs begotten of the bodies of the same man and his wife, with such condition expressed that if the same man and his wife die without [heirs[1]] of their bodies between them begotten, the land so given shall revert to the giver or his heir: In case also where one giveth lands in free marriage, which gift hath a condition annexed, though it be not expressed in the deed of gift, which is this, that if the husband and wife die without heir of their bodies begotten, the land so given shall revert to the giver or his heir: In case also where one giveth land to another, and the heirs of his body issuing; it seemed very hard, and yet seemeth to the givers and their heirs, that their will being expressed in the gift, was not heretofore, nor yet is observed: [2] In all the cases aforesaid, after issue begotten and born between them, to whom the lands were given under such condition, heretofore such feoffees had power to aliene the land so given, and to disherit their issue of the land, contrary to the minds of the givers, and contrary to the form expressed in the gift: And further, when the issue of such feoffee is failing, the land so given ought to return to the giver, or his heir, by form of the gift expressed in the deed, though the issue, if any were, had died: Yet by the deed and feoffment of them, to whom land was so given upon condition, the donors have heretofore been barred of their reversion, which was directly repugnant to the form of the gift: Wherefore our lord the King, perceiving how necessary and expedient it should be to provide remedy

Chap. 1. Several sorts of gifts of lands upon condition.

In such gifts the donor's will shall be observed.

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[1] heir [2] for

in the aforesaid cases, hath ordained, that the will of the giver, according to the form in the deed of gift manifestly expressed, shall be from henceforth observed; so that they to whom the land was given under such condition, shall have no power to alienе the land so given, but that it shall remain unto the issue of them to whom it was given after their death, or [shall revert] unto the giver or his heirs, if issue fail [whereas[1]] there is no issue at all, or if any issue be, [and fail by death, or heir of the body of such issue failing.[2]] Neither shall the second husband of any such woman, from henceforth, have any thing in the land so given upon condition, after the death of his wife, by the law of England, nor the issue of the second husband and wife shall succeed in the inheritance, but immediately after the death of the husband and wife, to whom the land was so given, it shall [come to their issue, or return unto[3]] the giver, or his heir, as before is said. And for as much as in a new case new remedy must be provided, this manner of writ shall be granted to the party that will purchase it: [Precipe A. quod juste, &c. reddat E. manerium de F. cum suis pertinentiis, quod C. dedit tali viro & tali mulieri, & hæredibus de ipsis viro & muliere exeuntibus.[4]] or thus: [Quod C. dedit tali viro in liberum maritagium cum tali muliere, & quod post mortem prædictorum viri & mulieris, prædicto B. filio eorundem viri & mulieris descendere debeat per formam donationis prædictæ, ut dicit, &c. Vel, Quod C. dedit tali & hæredibus de corpore suo exeuntibus, & quod post mortem illius talis, prædicto B. filio prædicti talis descendere debeat per formam, &c.[5]] The writ whereby the giver shall recover, when issue faileth, is common enough in the Chancery. And it is to wit that this statute shall hold place touching alienation of land contrary to the form of the gift hereafter to be made, and shall not extend to gifts made before. And if a fine be levied hereafter upon such lands, it shall be void in the law; neither shall the heirs, or such as the reversion belongeth unto, though they be of full age, within England, and out of prison, need to make their claim.[6]

Writs of formedon in descender.

A fine shall not bar the heir in tail.

* * * * * * * *

Chap. XXII. Waste between joint tenants

Whereas two or more do hold wood, turf-land, or fishing, or other such thing in common, wherein none knoweth his several, and some of them do waste against the minds of the other, an action may lie by a writ of waste;

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[1] *either by reason that*

[2] *it fail by death, the heir of such issue failing*

[3] return to their issue, or to

[4] *Command A. that justly, &c. he render to B. such a manor with the appurtenances, which C. gave to such a man, and such a woman, and to the heirs of the said man and woman issuing.*

[5] *Which C. gave to such a man in free marriage with such a woman, and which, after the death of the aforesaid man and woman, to the aforesaid B., son of the aforesaid man and woman, ought to descend, by the form of the gift aforesaid, as he saith. Or, which C. gave to such a man and the heirs of his body issuing, and which after the death of the said such a one, to the aforesaid B., son of the aforesaid such a one, ought, to descend by the form, &c.*

[6] See Act No. XXXI of 1854, s. 2.

and when it is come unto judgement, the defendant shall choose either to take his part in a place certain, by the sheriff, and by the view, oath, and assignment of his neighbours, [sworn and tried[1]] for the same intent, or else he shall grant to take nothing from henceforth in the same wood, turf-land, and such other, but as his partners will take; and if he do choose to take his part in a place certain, the part wasted shall be assigned for his part, [as it was[2]] before he committed the waste. And [there is such a writ[3]] in this case, that is to say; [Cum A. and B. tenent boscum pro indiviso, B. fecit vastum, &c.[4]]

and tenants in common.

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18 EDWARD I. A. D. 1289-90.

Chap. I.

Forasmuch as purchasers of lands and tenements of the fees of great men and [other lords,[5]] have many times heretofore entered into their fees, to the prejudice of the lords, [to whom[6]] the freeholders of such great men [[7]] have sold their lands and tenements to be holden in fee [[8]] of their feoffors, and not of the chief lords of the fees, whereby the same chief lords have many times lost their escheats, marriages, and wardships of lands and tenements belonging to their fees; which thing seemed very hard and extream unto those [lords and other great men,[9]] and moreover in this case manifest disheritance: Our lord the King, in his Parliament at Westminster after Easter, the eighteenth year of his reign, that is to wit, in the quinzime of Saint John Baptist, at the instance of the great men of the realm, granted, provided, and ordained, that from henceforth it shall be lawful to every freeman to sell at his own pleasure his lands and tenements, or part of them; so that the feoffee shall hold the same lands or tenements of the [chief lord of the same fee, by such service[10]] and customs as his feoffor held before.

Freeholders may sell their lands, so that the feoffee do hold of the chief lord.

Chap. II. Sale of part.

And if he sell any part of such lands or tenements to any, the feoffee shall immediately hold it of the chief lord, and shall be forthwith charged with the services, for so much as pertaineth, or ought to pertain to the said chief lord for the same parcel, according to the quantity of the land or tenement [so] sold: And so in this case the same part of the service [shall remain to the lord, to be taken by the hands of the feoffee, for the which he ought [11]] to

Apportionment of services.

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[1] *chosen and sworn*
[2] after as it was
[3] *the writ is such*
[4] *whereas A. and B. hold wood undividedly, B. hath done waste, &c.*
[5] *others*
[6] *to which purchasers*
[7] *and others*
[8] *to them and their heirs*
[9] *great men and other lords*
[10] *same chief lord and by the same services*
[11] *shall cease to be taken by the chief lord by the hands of the feoffor, from the time that the feoffee ought*

be attendant and answerable to the same chief lord, according to the quantity of the land or tenement sold, for the parcel of the service so due.

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25 EDWARD I. (*Magna Carta.*) A. D. 1297.

Chap I. Confirmation of liberties.

First, we have granted to God, and by this our present charter have confirmed, for us and our heirs for ever, that the church of England shall be free, and shall have all her whole rights and liberties inviolable. We have granted also, and given to all the freemen of our realm, for us and our heirs for ever, these liberties under-written, to have and to hold to them and their heirs, of us and our heirs for ever.

* * * * * * * *

Chap. XXIX. Imprisonment, &c., contrary to law Administration of justice.

No freeman shall be taken or imprisoned, or be disseised of his freehold, or liberties, or free customs, or be outlawed, or exiled, or any otherwise destroyed; nor will we not pass upon him, nor [condemn him[1]] but by lawful judgment of his peers, or by the law of the land. We will sell to no man, we will not deny or defer to any man either justice or right.[2]

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5 EDWARD III. A. D. 1331.

Chap. IX. No unlawful attachment, &c.

Item, it is enacted, that no man from henceforth shall be attached by any accusation, nor forejudged of life or limb, nor his lands, tenements, goods, nor chattels, seised into the King's hands, against the form of the Great Charter, and the law of the land.

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25 EDWARD III. A. D. 1350-1 & 1351-2.

Statute the First.

Our lord the King, at his Parliament holden at Westminster, at the ufas of the Purification of our Lady, the year of his reign of England the five and twentieth and of France the twelfth, considering the great mischiefs and damages which have happened to the people of his realm of England, as well

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[1] deal with him

[2] See *Re Amir Khán*, 6 Beng. 408, where the Advocate General admitted that, within the local jurisdiction, Magna Carta would apply to British subjects. It was confirmed by another Stat. of 25 Edw. I, called *Confirmatio cartarum*, which contains the following clause:—'And we will, that if any judgment be given from henceforth contrary to the points of the charters aforesaid by the justices, or by any other our ministers, that hold plea before them against the points of the charters, it shall be undone and holden for nought.'

because that the statutes ordained before this time have not been holden and kept as they ought to be, as because of the mortal pestilence that late reigned, and willing to provide for the quietness and common profit of his said people convenient remedy; therefore by the assent of the prelates, earls, barons, and other great men, and all the commons of his said realm summoned to the Parliament, hath ordained and established the things underwritten, videlicet: Because that some people be in doubt if the children born in the parts beyond the sea, out of the ligeance of England, should be able to demand any inheritance within the same ligeance, or not, whereof a petition was put in the Parliament late holden at Westminster, the seventeenth year of the reign of our lord the King that now is, and was not at the same time wholly assented; our lord the King, willing that all doubts and ambiguities should be put away, and the law in this case declared and put in a certainty, hath charged the said prelates, earls, barons, and other wise men of his council, assembled in this Parliament, to deliberate upon this point; all which of one assent have said, that the law of the crown of England is, and always hath been such, that the children of the Kings of England, in whatsoever parts they be born, in England or elsewhere, be able and ought to bear the inheritance after the death of their ancestors; which law our said lord the King, the said prelates, earls, barons, and other great men, and all the commons assembled in this Parliament, do approve and affirm for ever. And in the right of other children born out of the ligeance of England in the time of our lord the King, they be of one mind accorded, that Henry son of John de Beaumond, Elizabeth daughter of Guy de Bryan, and Giles son of Ralph Dawbeny, and other which the King will name, which were born beyond the sea, out of the ligeance of England, shall be from henceforth able to have and enjoy their inheritance after the death of their ancestors, in all parts within the ligeance of England, as well as those that should be born within the same ligeance. And that all children inheritors, which from henceforth shall be born without the ligeance of the King, whose fathers and mothers at the time of their birth be and shall be at the faith and ligeance of the King of England, shall have and enjoy the same benefits and advantages, to have and bear the inheritance within the same ligeance, as the other inheritors aforesaid in time to come; so always, that the mothers of such children do pass the sea by the licence and wills of their husbands. And if it be alledged against any such born beyond the sea, that he is a bastard, in case where the bishop ought to have cognisance of bastardy, it shall be commanded to the bishop of the place where the demand is, to certify the King's court where the plea thereof hangeth, as of old times hath been used in the case of bastardy alledged against them which were born in England.

The King's children declared inheritable in England, whereso ever born.

The children of certain persons born beyond the sea declared inheritable.

All children born beyond sea, of paren in the King' allegiance, henceforth inheritable.

Trial of bastardy in such cases.

28 EDWARD III. A. D. 1354.

Chap. III. None shall be condemned without due process of law.

Item, that no man of what estate or condition that he be, shall be put out of land or tenement, nor taken, nor imprisoned, nor disinherited, nor put to death, without being brought in answer by due process of the law.

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27 HENRY VIII. A. D. 1535-36.

Chapter x, ss. 1, 2, & 3.

An Acte concernyng uses & wylles.[1]

Transfer of lands at common law;

Where by the common lawes of this realme landes tenementes and hereditamentes be not [divisible[2]] by testament, nor ought to be transferrid frome one to an other but by solemne lyvery and season matter of recorde wryting suffycyent made bona fide without covyne or fraude, yet nevertheles

evils resulting from conveyances and devises to uses;

dyverse and sundry ymaginacions subtile invencions and practises have bene usid, wherby the heredytamentes of this realme have bene conveyed frome one to an other by fraudulent feoffementes fynes recoveryes and other assurances craftely made to secrete uses intentes and trustes, and also by wylles and testamentes somtyme made by nude parolx and wordes somtyme by signes and tokens and somtyme by wrytyng, and for the moste parte made by such persones as be visited with sykenes, in theyr extreme agonyes and peynes or at such tyme as they have hadde scantlye eny good memorie or remembrance; at whiche tymes they beyng provokid by gredye covetous persones lyeng in a wayte about them do many tymes dyspose indiscretely and unadvisidly theyr landes and inheritances; by reason wherof and by occasion of which fraudulent feoffementes fynes recovereys and other lyke assurances to uses confydences and trustes dyvers and many heires have bene unjustlye at sundry tymes disherited, the lordes have lost theyr wardes mariages relyefes hariottes eschetes aydes pur fayre fitz chyvaler & pur file maryer, and scantlye any persone can be certaynly assurid of any landes by them purchasid nor knowen surelye agayn whome they shal use theyr accions or execucions for theyr rightes, titles and duytes; also men maryed have lost theyr tenancies by the courtesie, women theyr dowers, manyfest perjuryes by triall of such secrete willes and uses, have bene comyttid, the Kynges Highnes hathe lost the proffyttes and advauntages of the landes of persones atteyntid, and of the

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[1] "The title by lease and release depends on the Statute of Uses, which is a remedial Act, and has always been considered by this Court as applicable to the lands of British subjects in this country," *Doe* v *Rancharam Tagore*, Morton, 72, per Chambers J. See Act IX of 1842, which extends to India the 4 & 5 Vic., cap. 21.

[2] devysible *O.*

landes craftelye put in feffement to the uses of alyens borne, and also the proffittes of waste for a yere and a daye of landes of felones atteyntid, and the lordes theyr eschetes therof, and many other inconveniences have happened and dayly do encreace amonge the Kynges subjectes, to theyr grate trouble and inquietnes, to the utter subvercion of the auncyent common lawes of this realme; for the extirpyng and extinguyshment of al such subtile practised feffementes fynes recoveryes abuses and errours heretofore usid and accustomyd in this realme, to the subversion of the good and auncyent lawes of the same, and to thintent that the Kynges Highnes or any other his subjectes of this realme shall not in any wise hereafter by any meanys or invencions be deceyvid damaged or hurted by reason of such trustes uses or confidences, it may please the Kynges most royall Majestie that it may be enacted by his Highnes by thassent of the lordes spyrituall & temporall and the comons in this present Parlyament assemblyd and by auctorite of the same in manour and fourme foloing that is to saye; that where any persone or persones stand or be seased or at any tyme hereafter shall happen to be seasid, of and in any honoures castelles manoures landes tenementes rentes servyces revercions remaynders or other hereditamentes, to the use confidence or trust of any other parsone or parsones or of anye bodie polytike, by reason of any bargayne sale feffement fyne recovery covenaunte contracte agrement will or otherwise by anye maner meanes what so ever it be, that in every suche case all and every suche parson & parsones & bodyes polytyke that have or hereafter shall have any such use confidence or truste in fee symple fee tayle for terme of lyf or for yeres or otherwyse, or any use confidence or trust in remaynder or reverter, shall from hensforth stond and be seasid demed and adjuged in lawfull season estate and possession of and in the same honours castels manours landes tenementes rentes servyces reverevyons remaynders and hereditamentes with theyr appurtenances to all intentes construccions and purposis in the lawe, of and in suche lyke estates as they had or shall have in use trust or confidence of or in the same. And that the estate right title and possession that was in suche parsone or parsones that were or shalbe hereafter seasid of any landes tenementes or hereditamentes, to the use confidence or trust of any such parsone or parsones or of any bodye polytyke, be from hensforth clerelye demed and adjugid to be in hym or them that haye or hereafter shall have suche use confydence or trust, after such qualytie maner fourme & condicion as they had before in or to the use confydence or trust that was in them.

persons entitled to the use of lands, shall stand and be seized, and be deemed in lawful seisin and possession, of the lands.

Sec. II. So where divers are

And be it further enactid by the auctorite aforseid that [were[1]] dyvers and many parsones be or hereafter shall happen to be joyntlye seasid, of and

[1] where *O*

seized to the use of any of them:

in any landes tenementes rentes revercions remaynders or other hereditamentes, to thuse confidence or trust of any of them that be so joyntlye seasid, that in every suche case that or those parson or parsones which have or hereafter shall have any suche use confidence or trust, in any suche landes tenementes rentes revercions remaynders or hereditamentes, shal from hensforth have and be demed and adjuged to have, onlye to hym or them that have or hereafter shall have such use confidence or trust, such estate possession and season of and in the same landes tenementes rentes revercyons remaynders or other hereditamentes, in lyke nature manor and fourme condicion and course as he or they hadde before in thuse confidence or trust of the same landes tenementis or hereditamentis: Savyng and reservyng to all and singuler persones and bodyes polytyke theyr heyres and successors, other than those person or persones which be seasid or hereafter shalbe seasid of any landes tenementis or hereditamentis to any use confidence or trust, all such right title entre enterest possession rentis and action as they or any of theym had or myght have hadde before the makyng of thys Acte. And also savyng to all and singuler those persones and to theyr heyres which be or hereafter shalbe seasid to anye use, al suche former right title entre enterest possession rentis customes servyces and action as they or anye of theym myght have had to hys or theyr owne proper use in or to any manours landes tenementis rentis or heredytamentis wherof they be or hereafter shalbe seasid to any other use, as if thys present Acte had never bene hadde nor made; any thing conteynid in thys Acte to the contrary notwithstonding.

Saving for rights of strangers.

Savings for rights of persons seized to any use.

Sec. III. In case of uses for payment of any rents, the parties intitled to the rents shall be deemed in possession and seizin thereof.

And where also dyvers persons stond and be seasid of and in any landes tenementis or hereditamentis in fee symple or otherwise, to the use or intent that some other person or persones shall have and perceyve yerely to them and to his or theyr heyres one annuell rent of x li. or more or lesse out of the same landis and tenementis, and some other person one other annuel rent to hym and hys assignes for terme of lyf or yeres or for some other specyall tyme, according to suche entent and use as hath bene heretofore declarid lymyted and made therof; be it therfore enacted by the auctorite aforseid that in every suche case the same persones theyr heyres and assignes, that have suche use and interest to have and perceyve any such annuell rentis out of anye landis tenementis or hereditamentis, that they and every of them theyr heyres and assignes be adjugid and demyd to be in possession and season of the same rent, of and in such lyke estate as they had in the title interest or use of the said rent or proffytt, and as if a suffycyent graunt or other laufull conveyance had be made & executed to them by suche as were or shalbe seased to the use or intent of anye suche rent to be hadde made or paide accordyng to the very trust and intent therof. And that all and every suche

persone [or[1]] persones as have or hereafter shall have any title use and interest in or to anye such rent or proffytte, shall laufully distrayne for none payment of the seid rent and in theyr owne names make advowryes or by theyr baylyffes or servauntes make conysaunces and justyfycacions, and have al other suytes, entres and remedies for such rentis, as if the same rentis hadde be actuallye and really graunted to them with suffycyent clauses of dystresse reentre or otherwyse, according to such condicions peynes or other thynges lymyted and apoyntid upon the trust and entent for payment or suertie of such rente.

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31 HENRY VIII. A. D. 1539.

CHAPTER I.

An Acte for joynt Tenantis and Tenantis in comon.

Inconveniences resulting from joint-tenancy &c., undivided.

FORASMUCHE as by the comen lawes of this realme, diverse of the Kingis subjectis being seised of mannors landis tenementes and hereditamentes as joynt tenantes or as tenantes in comen with other, of any estate of enheritaunce, in their owne rightis or in the right of their wyffes, by purchase discent or otherwise, and every of them so being joynt tenantes or tenantes in comen hathe like righte title interest and possession in the same mannors landes tenementes and hereditamentis for their partis or porcions joyntlye or in comen undevydedlye together withe other, and none of them by the lawe doeth or maye knowe their severall partes or porcions in the same, or that that ys his or theirs by hit selfe undevyded, and cannot by the lawes of this realme otherwise occupyè or take the profytt of the same, or make any severans division or particion thereof, without either of their mutuall consentes and assentis; by reason whereof diverse and many of them, beinge so joyntly and undevidedly seised of the saide mannors landis tenementis & hereditamentis, often tymes of their perverse covetous and malicious myndes and willes, ayens all right justice equitie and good conscience by strengthe and power, hath not onlye cutt and fallen downe all the woodes and trees growinge uppon the same, but also hathe extirped subverted pulled downe and distroyed all the houses [edificyons[2]] and buyldyngis meadowes pastures commens and the hoole commodities of the same, and hath taken and converted them to their owne uses and behooffis, to the open wronge & disherison and ayens the myndes and willes of other holdinge the same mannors landes tenementis and here-

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[1] and *O.* [2] So also in the original Act. *Printed copies* read 'edifices.'

ditamentis joyntlye or in commen withe them, and they have bene alwaies without assured remedy for the same; be it therefore enacted by the Kinge our most drede soveraigne lorde and by thassent of his lordes spirituall and temporall and by the commons in this present Parliament assembled, that all joynttenantis and tenantes in commen, that nowe be or hereafter shalbe of enny estate or estates of enheritaunce in their owne rightis or in the righte of their wyffes, of any manners landes tenementis or hereditamentes within this realme of Englande Wales or the mersches of the same, shall and maye be coacted and compelled by vertue of this present Acte, to make particion betwene them of all suche mannors landes tenementes and hereditamentis as they nowe holde or hereafter shall holde as joynttenantis or tenantes in commen, by writt de [particione[1]] facienda, in that case to be devised in the Kinge our soveraigne lordes Courte of Chauncerie, in like manner and forme as coperceners by the comen lawes of this realme have byne and are compellable to doe, and the same writt to be pursued at the commen lawe.

Joint-tenants and tenants in common shall be compellable to make partition, in like manner as coparceners.

Sec. II. After partition each shall have aid of the other.

Provided alwaye and be it enacted, that everye of the saide joynttenantis or tenantes in commen and their heires after suche particion made, shall and may have ayde of the other, or of their heires, to thentent to deraigne the warrantye paramounte and to recover for the rate as is used betwene coperceners after particion made by the order of the comen lawe; any thinge in this Acte conteyned to the contrarie notwithstandinge.

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32 HENRY VIII. A. D. 1540.

Chapter XXXII.

Joinctenauntis for lif or yeres.

St. 31 H. VIII. C. I. for partition by joint-tenants, &c., extended to persons having particular estates for life or years.

Forasmuche as in the Parlament begon at Westminster the xxviijth day of Aprill and there contynued till the xxviijth day of June the xxxj yere of the Kinges mooste noble and victoriouse reigne that nowe is, it was amongest other thinges [there[2]] enacted and established that all joyncte tenantis and tenantis in common that then were or heraftre shulde be of anny estate or estatis of inheritaunce, in their owne rightis or in the right of their wifes, of anny mannours landis tenementis or hereditamentis within this realme of England Wales or marches of the same, shall and may be coacted and compellid by vertue of the said Acte to make partition betwene them of all suche mannours landis tenementis and hereditamentis as they [than hilde[3]] or herafter shulde holde as joynte tenauntis or tenauntis in comen; as more [[4]]

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[1] Participacione *O.* [2] *O.* omits. [3] Then holde *O.* [4] Playnly *O.*

at large apperith by the said estatute: And forasmuche as the said estatute dothe not extende to joyncte tenauntis or tenauntis in common for terme of life or yeris, nother to joyncte tenauntis or tenauntis in common where one or some of them have but a particulier estate for terme of life or yeris and thother have estate or estatis of inheritaunce of and in any mannours landis tenementis and hereditamentis; be it therefore enacted by the Kinge our souveraine lorde and by thassent of his lordis spirituall and temporall and the comons in this present Parlament assembled and by thauctoritie of the same, that all joynct tenauntis and tenauntis in commen and every of them, whiche nowe hold or herafter shal holde joynctly or in common for terme of life yere or yeres, or joynctetenauntis or tenauntis in common where one or some of them have or shalhave estate or estatis for terme of life or yeris with thother that have or shalhave estate or estatis of inheritaunce or freeholde, in any manours landes tenementis or hereditamentis, shall and may be compellable from hensfurth, by writte of partition to be pursued out of the Kinges Courtis of Chauncery uppon his or their cace or caces, to make severaunce and partition of all suche manours landis tenementis and hereditamentis whiche they holde joynctely or in common for terme of lyf or lifes yere or yeris, where one or somme of them holde joynctly or in common for terme of life or yeris with other, or that have an estate or estatis of inheritaunce or freeholde:

II. Such partition shall not prejudice others, not parties.

PROVIDED alway and be it enacted that no suche partition nor severaunce hereafter to be made by force of this Acte be nor shalbe prejudiciall or hurtefull to anny personne or personnes their heirs or successours other than suche whiche be parties unto the said partition their executors or assigneis.

CHAPTER XXXIV.

Graunties of Reversions.

Covenants in leases, &c., not available by common law except to parties or privies thereto;

WHERE bifore this tyme divers, aswell temporall as ecclesiasticall and religiouse personnes, have made sundry leases demyses and grauntis to divers other persones of sundry manours lordshipps fermes meases landis tenementis medowes pastures or other hereditamentis for terme of life or lifes or for terme of yeres, by writing undre their seale or sealis conteyning certain conditions covenantis and agreamentis to be perfourmed as well on the parte and bihalfe of the said [leases and grauntis[1]] their executours and assigneis, as on the behalf of the said lessours and grantours their heirs and successours; and forasmuche as by the common lawe of this realme no straunger to any covenaunt action or condition shall take any advauntage or benefite of the same by any

[1] lessees & graunties *O.*

meanes or wayes in the lawe, but onely suche as be parties or prives therunto, by the reason wherof as well all [grauntis[1]] of reversions as also all grauntees and [patentis[2]] of the King our souveraine lorde of sundrie manours lordeships graunges fermes meases landis tenementis molowes pastures or other hereditamentis, late bilonging to monasteries and other religiouse and ecclesiasticall houses dissolved suppressid renouncid relinquished forfaicted geven up or by other meanes comme to thandis and possession of the Kings Majesty syns the fourth day of February the xxvijth yere of his mooste noble reigne, be excluded to have any entree or action against the said [lesses[3]] and grauntees their executours or assigneis whiche the lessours bifore that tyme mought by the lawe have had against the same [lesses[4]] for the breache of any condition covenaunt or agreament comprisid in the indentures of their said lesses dimises and grauntes: Be it therefore enacted by the Kinge our souveraine lorde the lordes spirituall and temporall and the commons in this present Parlament assembled and by auctoritie of the same, that aswell all and every personne & persones and bodies politike their heires successours and assigneis, whiche have or shalhave any gifte or graunte of our said souveraine lorde by his letres patentis af anny lordeships mannours landis tenementis rentis personnages tithes portions or any other hereditaments, or of anny reversion or reversions of the same, whiche did bilonge and appertaine to any of the said monasteries and other religiouse and ecclesiasticall houses dissolved suppressid relinquished forfaicted or by any other meanes comme to the Kinges handes syns the said iiijth day of February the xxvij yere of his moost noble reigne, or whiche at any tyme heretofore did bilonge or appertayne to any other persone or personnes and aftre came to thandis of our said souveraine lorde, as also all other personnes being grauntees or assigneis to or by our said souveraine lorde the King, or to or by any other personne or personnes than the Kings Highnes, and theires executours successours and assignes of everie of them, shall and may have and enjoye like advauntage against the [lesses[5]] their executours administratours and assigneis, by entree for none payment of the rent or for doing of wast or other forfaicture, and also shall and may have and enjoye all and every suche like and the same advauntage benefite and remedyes by action onely for not perfourmyng of other conditions covenantis or agreamentis conteynid and expressid in the endentures of their said leases dymyses or grauntes, against all and every the said [lesses[6]] and fermours and graunties their executours administratours and assignis, as the said lessours or grantours them selfis or their heires or successours ought shuld or

grantees of the lands of religious houses dissolved, and all grantees of reversions in lands, &c., shall have advantage of all covenants against the lessees of such lands.

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[1] grauntics *O.*
[2] patentyes *O.*
[3] lessees
[4, 5, 6] lessees *O.*

might have had and enjoyed at any tyme or tymes, in like maner and fourme as if the reversion of suche landis tenementis or hereditamentis had not comme to thandis of our said souveraine lorde, or as our said souveraine lorde his heires and successours shuld or might have had and enjoyed in certaine cases by vertue of Thacte made at the first cession of this present Parlament if no suche grante by letres patentes had ben made by his Highnes.

31 H VIII. c. 13.

II. Lessees may have action of covenant, &c., against such grantees.

MOREOVER be it enacted by auctoritie aforesaid that all fermours lessees and grantees of lordeshipps manours landis tenementis rentis personnages tithes portions or anny other hereditamentis for terme of yeres life or lyfes their executours administratours and assigneis, shall and may have like action avauntage and remedy againste all and everie personne and personnes and bodies politike their heires successours and assigneis, whiche have or shalhave any gifte or graunte of our souveraine lorde the Kinge or of anny other personne or personnes of the reversion of the same manours landis tenementis and other hereditamentis so letten or any percell therof, for any condition covenaunt or agreament conteynid or expressid in the indenturis of their leasse and leasses as the same [leases[1]] or anny of them might and shulde have had against their said leassours and grauntours their heires or successours; all benefites and advauntages of recoveres by reason of anny waraunty in deede or in lawe by voucher or otherwise onely excepted.

III. Commencement of the provisions of this Act.

PROVIDED allwaies that this Acte nor anny thinge or thinges therin conteynid shall extend to hindre or charge any persone or personnes for the breche of any covenaunt or condition comprised in any suche writing as is aforesaid, but for suche covenauntis and conditions as shall be broken or not perfourmed after the firste day of Septembre next comming and not bifore; any thinge bifore in this Acte conteynid to the contrarie therof notwithstanding.

CHAPTER XXXVII. A. D. 1540.

For recovering of Arreragis by Executours and Administratours.

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Sec. IV. Persons entitled to rents during the life of another may recover the same after death of *cestui que vie.*

AND likewise it is further enacted by thauctoritie aforesaid that yf any persone or persons whiche nowe have or herafter shalhave any rentis or fee fermes for terme of life or lyves of anny other personne or personnes, and the said rent or fee ferme nowe be or heraftre shalbe due behinde and unpaid in the life of suche personne or personnes for whose life or lifes the estate of the said rent or fee ferme did depend or contynue, and aftre the said personne or persones doth dye [than[2]] he unto whome the said rent or fee ferme was due

[1] lessees *O.* [2] than *O.*

in fourme aforesaid, his executours and administratours, shall and may have an action of dett against the tenant in demeane that ought to have paid the same whan it first was due his executours and administratours, and also distrayne for the same arrerages uppon suche landis and tenementis out of the whiche the said rentis or fee fermes were yssuyng and payeable, in suche like maner and fourme as he ought or might have doon if suche personne or personnes, by whose deathe the aforesaid astate in the said rentis and fee fermes was determined and expired, had ben in full lif and not deade, and the avowry for the taking of the same distres to be made in maner and fourme aforesaid.

Chapter XXXVIII.

Concerning Precontracts and Degrees of Consanguinite.[1]

Usurped power of the see of Rome heretofore exercised;

Wheras heretofore the usurped power of the bishop of Rome hathe alwayes entangled and troubled the mere jurisdiction and legal power of this realme of England, and also unquietid muche the subjectis of the same by his usurped power in them, as by making that unlaufull whiche by Goddis wourde is laufull bothe in mariages and other thinges as heraftre shall appere at more length; and till nowe of late in our souveraine lordes tyme, whiche is otherwise by larning tawght than his predecessours in tymes past of longe tyme have ben, hath so contynued the same, wherof yet some sparkis be lefte whiche heraftre might kindle a greater fyer and so remayning his power not to seme utterly extincte, therefore it is thought mooste convenient to the Kinges Highnes his lordes spirituall and temporall with the comons of his realme assembled in this present Parlament that twoo thinges specially for this tyme be with diligence provided for, whereby many inconveniences hath ensued and many moo els mought ensue and followe: As where heretofore divers and many personnes after longe contynuaunces togither in matrimonye, without any allegation of either of the parties or anny other at their mariage whie the same matrimony should not be good juste and laufull, and after the same matrimony solemnised and consummate by carnall knowlege, and also some tyme fruite of children ensued of the same mariage, have nevertheless by an unjuste lawe of the bishop of Rome, whiche is that uppon pretence of a former contracte made and not consummate by carnall copulation, for profe wherof twoo witnes by that lawe were onely required, ben divorsed and separate contrarie to Goddis lawe, and so the true matrimony bothe solemnised in the face of the Church and consummate with bodily knowlege and confirmed also with the fruite of children had betwene them clerely frustrate and dissolved:

by dissolution of mariages on pretence of precontract;

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[1] As concerning precontracts, rep., 2 & 3 Edw. 6, c. 23, s. 1 (s. 2, Ruff.)

Further also by reason of other prohibitions than Goddis lawe admitteth, for their lucre by that courte invented, the dispensation wherof they alwaies reservid to them selfis, as in kynnerede or affinitie betwene cousyn germaynes and so to fourth and fourth degree carnall knowlege of anny of the same kynne or affinitie bifore in suche outwarde degrees which elys were laufull and be not prohibited by Goddis lawe, and all bicause they wolde gett monney by it and kepe a reputation to their usurped jurisdiction; whereby not onely muche discorde betwene laufull maried personnes hath contrarie to Goddis ordenaunce arrisen, muche debate and sute at the lawe with the wrongefull vexation and greate damage of the innocent partie hath ben procured, and many juste mariages brought in doubte and daunger of undoyng and also many tymes undoone and laufull heires disherited, wherof there had never els but for his vayne glorious usurpation ben moved any suche question, syns fredomme in them was geven us by Goddis lawe which ought to be most sure and certein, but that notwithstanding mariages have been brought into suche an uncertainty thereby that no mariage coulde be so surely knytt and bounden but it shulde lye in either of the parties power and arbitre, casting away the feare of God, by meanes and compasses to prove a precontracte a kynnerede an alliance or a carnall knowlege to defeate the same, and so undre the pretense of thise allegations afore rehersid to lyve all the daies of their lyves in detestable adultery to thutter destruction of their owne soules and the provocations of the terrible wrath of God uppon the places where suche abominations were suffred and used: Be it therefore enacted by the King our souveraine lorde the lordes spirituall and temporall and the commons in this present Parlament assembled and by auctoritie of the same, that from the firste day of the monneth of July next [ensueyng[1]] in the yere of our Lorde God a thousande fyve hundred and forty, all and every suche mariages, as within this churche of England shalbe contracted betwene laufull personnes, as by this Acte wee declare all personnes to be laufull that be not prohibited by Goddis lawe to mary, suche mariages being contracte and solemnised in the face of the churche and consummate with bodily knowledge or frute of childerne or childe being had therin betwene the parties so maried, shalbe by auctorite of this present Parlament aforesaid demed judged and taken to be lauful good juste and indissoluble, notwithstanding any precontracte or precontractis of matrimony, not consummate with bodily knowlege, whiche either of the personnes so maried or both shalhave made with anny other personne or personnes, bifore the tyme of contracting that mariage which is solemnised and consummate or wherof suche frute is ensued or maye ensue as afore; and notwithstanding any

by dispensations for marriage between cousins, &c.

Evils resulting therefrom.

Marriages contracted by persons not prohibited by God's law, solemnized and consummated, shall not be dissolved for any precontract not consummated.

[1] coming *O.*

No marriage without the Levitical degrees shall be impeached.

dispensation prescription lawe or other thinge graunted or confirmed by Acte or otherwise: And that no reservation or prohibition, Goddis lawe except, shall trouble or impeche anny mariage without the Leviticall degrees; and that no person of what estate degree or condition soever he or she be shall aftre the [1] first day of the [said[2]] monneth of July aforesaid be admitted in any of the spirituall courtis within this the Kinges realme or any his graces other landis and dominions to any proces plea or allegation contrarie to this aforesaid Acte.

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2 & 3 EDWARD VI. A. D. 1548.

Chapter XXIII.

An Acte for the repeale of a Statute towchinge precontractis.

Recital of Stat. 32 H. VIII. c. 38 against the dissolution of marriages consummated, under pretext of precontract not consummated;

Whereas in the xxxijth yere of the raigne of the late Kinge of famous memorie Kinge Henrie Theight, because that many inconveniencis had chaunced in this realme by breakinge and dissolvinge of good and laufull marriagis, yea whereupon also sometyme yssue and children had followed, under the colour and pretence of a former contracte made withe an other, the whiche contracte diverse tymes was but verie slenderlie proved, and often but surmysed by the malice of the partie who disired to be dissolved from the marriage whiche [3] lyked not and to be copuled withe an other, there was an Acte made that all and everie suche marriages as within the Churche of Englonde shoulde be contracted and solempnized in the face of the Churche and consummate withe bodilye knowledge or fruyte of children or childe beinge had betwene the parties so married, shoulde be by the auctoritye of the saide Parliament demed judged and taken to be laufull good juste and indissoluble, notwithstandinge any precontracte or precontractis of matrymonye, not consummate withe bodylie knowledge, whiche either of the persons so married or bothe had made withe any other person or persons before the time of contractinge that marriage whiche ys solempnized or consummated or whereof suche fruite ys ensued or maye ensue, as by the same Acte more playnly maye appeare: Sithe the tyme of the whiche Acte, althoughe the same was godly ment, the unrulynes of men hathe ungodlye abused the same and diverse inconveniences intollerable in manner to Christian eares and eyes followed thereupon, women and men breaking their owne promyses and faythes made by the one unto the other, so sett upon sensualitie and pleasure, that yf after the contracte of matrymonye they might have whom they more favored and desyred they coulde be contented by lightnes of their

abuse of the said Act;

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[1] said *O.* [2] *O.* omits. [3] they *O.*

nature to overturne all that they had done afore, and not afearde in manner even from the verie churche doore and marriage feaste, the man to take an other spowse and the espowse to take an other husbande, more for bodylie lusts and carnall knowledge then for suertye of faythe and truethe, or havinge God in their good remembrance contempnynge manye tymes also the comaundment of the ecclisiasticall judge forbyddinge the parties havinge made the contracte to attempte or doe any thing in prejudyce of the same; be it therefore enacted by the Kinges Highnes the lordes spirituall and temporall and the commons in this present Parliament assembled, that as concerninge precontractis the saide former Estatute shall from the fyrste daye of Maie next commynge ceasse be repealed and of noe force or effecte, and be reduced to the state and ordre of the Kinges ecclisiasticall lawes of this realme, whiche ymmediatlye before the making of the said Estatute in this case were used in this realme; so that from the saide firste daye of Maie, when any cause or contracte of marriage is pretended to have bene made, it shalbe laufull to the Kinges ecclisiasticall judge of that place to heare and examyne the saide cause, and having the saide contracte sufficiently and laufully proved before him, to give sentence for matrymonye commanding solempnizacion cohabitacion consumacion and tractacion as becometh man and wyef to have; withe inflictinge all suche paynes upon the disobedientis and disturbers thereof, as in tymes past before the saide statute, the Kings ecclisiasticall judge by the Kings ecclisiasticall lawes ought and might have done yf the saide statute had never bene made; any clause article or sentence in the said statute to the contrarie in any wise notwithstandinge.

recited Act repealed as to precontracts, on which the spiritual judge may decide, &c.

PROVIDED alwayes and be it enacted, that this Acte doe not extende to disanull dissolve or breake any marriage, that hathe or shalbe solempnizated and consummated before the saide firste daie of Maie next ensuynge, by title or color of any precontracte; but that they be and be demed of lyke force and effecte to all intentis construccions and purposes as yf this Acte had never bene had ne made; any thinge in this presente Acte notwithstandinge.

II. Proviso for marriages had before this Act.

PROVIDED also that this Acte doe not extende to make good any of the other causes to the dissolucion or disanullinge of matrimonye whiche be in the saide Acte spoken of and disanulled, but that in all other causes and other thinges there mencioned, the saide former Acte of the xxxijth yere of the late Kinge of famous memorie doe stande and remayne in his full strenghe and power; any thinge in this Acte notwithstandinge.

III. Recited Act 32 H. VIII. c. 38 confirmed in all other respects.

13 ELIZABETH. A. D. 1571.

CHAPTER V.

An Acte agaynst fraudulent Deedes Gyftes Alienations, &c.[1]

Evils of feigned conveyances to defraud creditors;

FOR the avoyding and abolysshing of faigned covenous and fraudulent feoffmentes gyftes grauntes alienations conveyaunces bondes suites judgementes and executions aswell of landes and tenementes as of goodes and catals, more commonly used and practysed in these dayes, then hathe ben seene or hard of heretofore; which feoffementis gyftes grauntes alienations conveyaunces bondes suites judgementes and executions have ben and are devysed & contryved of malyce fraude covyne collusion or guyle, to thend purpose and intent to delaye hynder or defraude creditors and others of theyr juste and lawfull actions suites debtes accomptes damages penalties forfaitures heriotts mortuaries and releefes, not onely to the let or hindraunce of the due course and execution of lawe and justyce, but also to the overthrowe of all true and playne dealyng barganynge and chevysaunce betwene man and man, without the which no common welth or civile societie can be mayntayned or contynued: Bee yt therefore declared ordeyned and enacted by thauthoritie of this present Parliament, that all and every feoffement gyfte graunte alienation bargayne and conveyaunce of landes tenementis hereditamentis goodes and catalls or of any of them, or of any lease rent common or other profyte or charge oute of the same landes tenementis hereditamentis goods and catals or any of them, by wryting or otherwyse, and all and every bonde suite judgement and execution at any tyme, had or made sithens the begyninge of the Queenes Majesties raigne that nowe is or at any tyme hereafter to be had or made, to or for any intent or purpose before declared and expressed, shalbe from henceforth deemed and taken, onely as againste that person or persons, his or theyre heyres successors executors administrators and assignes and every of them, whose actions suites debtes accomptes damages penalties forfaituris heriottis mortuaries and releyfes, by such guylefull covenous or fraudulent devyses and practyses as is aforesaid, are shall or mought be in any wyse dysturbed hyndred delayed or defrauded, to be clearely and utterly voyde frustrate and of none effecte;

such conveyances declared void as against the creditors.

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[1] "In Morton's Cal. Rep. 358 [*Johnston* v. *Morris*], there is a *semble* that the Statute (which is *in pari materia* [with 27 Eliz., c. IV.]) 13 Eliz., c. V., appears to be considered as extending to India; and in a case arising entirely between British subjects, other than Hindús or Muhammadans, I am disposed to think that, in accordance with the reasoning in *Freeman* v. *Fairlie* (1 Moo. I. A. 305) and *The Mayor of Lyons* v. *The E. I. Co.*, ib. p. 175, the Statute 27 Eliz. ought also to be so considered," *Azim-un-Nissa Begum* v. *Dale* (6 Mad. H. C. Rep., 455, 474, per Bittleston J.) See also *Agra Bank* v. *Cochrane*, 3 Tayl. & Bell 63: *Tarrucknauth Paulit* v. *Gladstone*, 1 Hyde 178. "The Statute [13 Eliz., c. 5] itself is said to be merely in affirmance of the common law; it has always been treated by this [the Calcutta High] Court as applying to transactions between Natives," *Shamkissore Shaw* v. *Cowie*, (2 Ind. Jurist, O. S., 7, 10, per Norman J.,) who also observes that it is not a law regulating contracts or dealings [21 Geo. III, c. 70, s. 17], but for the suppression of frauds upon creditors.

any pretence color fayned consideration expressing of use or any other matter or thyng to the contrary notwithstanding.

II. All parties to such fraudulent conveyances, putting the same in effect, shall forfeit one year's value of land, and the whole value of goods so conveyed;

And be yt further enacted by thauethoriti aforesaid, that all and every the parties to such faygned covenous or fraudulent feoffement gyfte graunte alienation bargayne conveyaunce bondes suites judgementes executions and other thynges before expressed, or beinge privy and knowynge of the same or any of them, which at any tyme after the tenthe daye of June next commyng shall wittingly and willingly put in ure avowe mayntaine justefie or defend the same or any of them, as true simple and done had or made bona fide and upon good consyderation, or shall alien or assigne any the landes tenementes goodes leases or other things before mentioned, to hym or them conveyed as is aforesaid, or anye parte thereof, shall incurre the penaltie and forfayture of one yeres value of the said landes tenementes & heredytamentes leases rentes comons or other profytes of or oute of the same, and the whole value of the said goodes and cattalls, and allso so muche monye as are or shalbe conteyned in any suche covenous and fayned bonde; the one moitie whereof to be to the Queenes Majestie, her heyres and successors, and thother moitye to the partye or parties greeved by suche fayned and fraudulent feoffement gyfte graunte alyenation bargayne conveyaunce bondes suites judgementes executions leases rentes communes profytes chargis and other thynges aforesaide; to be recovered in any of the Queenes courtes of record by action of debt byll playnt or information, wherein none essoyne protection or wager of lawe shalbe admitted for the defendaunt or defendauntes; and also beinge thereof lawfully convycted, shall suffer imprysonment for one halfe yere withoute baile or maynepryse.

half to the Crown, and half to the party grieved.

III. Proviso for common recoveries by tenants in tail, &c.

Provyded alwayes and be it further enacted by thauethoritie aforesaid, that wheras sundry commen recoveris of landes tenementes and heredytamentes have heretofore ben had and hereafter maye be had agaynst tenaunt in tayle or other tenaunte of the frehold, the revertion or remaynder or the right of revertion or remaynder then being in any other person or persons, that every such comen recoverye heretofore had and hereafter to be had of any landes tenementis or heredytamentis shall, as touchinge suche person and persons which then had any remaynder or revertion or right of remaynder or revertion, and agaynste the heyres of everye of them, stande remayne and be of such lyke force and effect, and of none other, as the same should have ben yf this Acte had never ben had ne made.

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V. Proviso for conveyances made bona fide, and on

Provyded also and be it enacted by thauethoriti aforesaid, that this Acte or any thynge therein contayned shall not extend to any estate or interest, in landes tenementis hereditamentis leases rentes comons profites goodes or catals,

good consideration.

had made conveyed or assured or hereafter to be had made conveyed or assured, which estate or interest is or shalbe upon good consyderation, and bona fide lawfully conveyed or assured to any person or persons or bodyes politique or corporate, not havyng at the tyme of suche conveyance or assurance to them made any maner of notice or knowledge of suche covyne fraude or collusion as is aforesaid; any thing before mentioned to the contrary hereof notwithstandynge.

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27 ELIZABETH. A. D. 1584 [& 1585].

Chapter IV.

An Act against covenous and fraudulent conveyaunces.[1]

For avoiding mischiefs by fraudulent conveyances of lands

Forasmuch as not onely the Queenes most excellent Majestie, but also divers of her Highnes good and lovinge subjectes and bodies politique and corporate, after conveiances obtained or to be obtained and purchases made or to be made of landes tenementes leases estates and hereditamentes for money or other good considerations, may have incurre and receive great losse and prejudice, by reason of fraudulent and covenous conveiances estates giftes grauntes charges & limitations of uses, heretofore made or hereafter to be made of in or out of lands tenementes or hereditamentes so purchased or to be purchased; which said giftes grauntes charges estates uses and conveiances were or hereafter shal be meant or intended, by the parties that so make the same, to be fraudulent and covenous, of purpose and entent to deceive such as have purchased or shall purchase the same, or els, by the secret entent of the parties, the same be to their owne proper use and at their fre disposition, coloured neverthelesse by a fained countenance and shewe of woordes and sentences, as though the same were made bona fide for good causes and upon just and lawfull considerations: For remidy of which inconveniences, and for the avoyding of such fraudulent fayned and covenous conveyances giftes grantes charges uses and estates, and for the maintenance of upright and just dealing in the purchasing of landes tenements and hereditaments, be it ordeined and enacted by the authoritie of this present Parliament, that all and everie conveiance graunt charge lease estate incombrance and limitation of use or uses, of in or out of any landes tenements or other hereditamentes whatsoever, had or made any time heretofore sithence the beginninge of the Queenes Majesties raigne that nowe is, or at any time hereafter to be had or

Fraudulent conveyances, made to deceive purchasers, declared void as against such purchasers.

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[1] See *Azim-un Nissa Begum* v *Dale*, 6 Mad. H. C. Rep. 474 cited *supra*, p. 18.

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made, for the intent and of purpose to defraude and deceive such person or persons bodies pollitique or corporate as have purchased or shall afterwardes purchase in fe simple fe taile for life lives or yeres the same landes tenementes and hereditamentes, or any part or percell thereof, so formerly conveid graunted leased charged incumbred or limitted in use, or to defraude and deceive such as have or shall purchase any rent profite or commoditie in or out of the same, or any parte thereof, shall be deemed and taken, only as against that person and persons bodies politique and corporate, or [his[1]] heirs successors executors administrators and assignes, and against all and everi other person and persons lawfully having or claiming by from or under them or any of them, which have purchased or shall hearafter so purchase for money or other good consideration the same landes tenements or hereditaments, or [other[2]] part or parcell thereof, or any rent profet or commoditie in or out of the same, to be utterly voide frustrate and of none effecte; any pretence, colour, fained consideration, or expressinge of any use or uses, to the contrari notwithstanding.

II. Penalty upon all parties to such fraudulent conveyances, putting the same in effect, one year's value, half to the crown and half to the party grieved; and half a year's imprisonment.

And be it foorther inacted by the authoritie aforesaide, that all and everie the parties to such fained covenous and fraudulent giftes grauntes leases charges or conveiances before expressed, or beinge privie and knowing of the same or any of them, which after the xx day of Aprill next cominge shall wittingely and willingly put in ure avow maintaine justifie or defende the same or any of them, as true simple and done had or made bona fide or upon good consideration, to the disturbance or hinderance of the said purchaser or purchasers [leasses or grauntes,[3]] or of or to the disturbance or hinderance of their heires successors executors administrators or assignes, or such as have or shall lawfully claim anything by from or under them or any of them, shall incurre the penaltie [or[4]] forfaiture of one yeres value of the said landes tenementes and hereditamentes so purchased or charged; the one moitie whereof to be to the Queenes Majestie her heirs [or[5]] successors, and the other moitie to the partie or parties greved by such fained and fraudulent gift graunt lease conveiance incumbrance or limatation of use; to be recovered in any of the Queenes courtes of recorde by action of debt bill plaint or information, wherein no essoine protection or wager of lawe shall be admitted for the defendant or defendants; and allso being thereof lawfully convicted shall suffer imprisonment for one halfe yere without baile or mainprise.

III. Proviso for conveyances made on good consideration, &c.

Provided also and be it enacted by the authoritie aforesaid, that this Acte or any thing therin contained shall not extend or be construed to impeach defait make void or frustrate any conveiance assignement of lease assurance

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[1] his and theire *O : Dup.*
[2] any : *Dup.*
[3] lessees or grauntees *O : Dup.*
[4], [5] and *O : Dup.*

4225

graunt charge lease estate interest or limitation of use or uses, of in to or out of any landes tenementes or hereditaments, heretofore at any time hade or made or hereafter to be hade or made, upon or for good consideration and bona fide, to any person or persons bodies pollitique or corporate; any thinge before mentionede to the contrary heereof notwithstandinge.

IV. Conveyances made revocable, of lands afterwards sold for good consideration, declared void against the purchasers

AND be it further enacted by the authoritie aforesaide, that if any person or persons have heretofore, sithens the beginning of the Queenes Majesties raigne that nowe is, made, or hereafter shall make, any conveiance gift graunt demise charge limitation of use or uses or assurance, of in or out of any lands tenementes or hereditamentes, with ani clause provision article or condition of revocation determination or alteration at his or their will or pleasure of such conveiances assurance grauntes limitations of uses or estates, of in or out of the saide landes tenementes or hereditamentes or of in or out of any part or parcell of them, contained or mentioned in any writinge deede or indenture of such assurance conveiance graunte or gift; and after such conveiance graunte gift demise charge limitation of uses or assurance so made or had, shall or doe bargaine sell demise graunt convey or charge the same landes tenementes or hereditamentes, or any part or parcell thereof, to any personn or personns bodies pollitique or corporate, for money or other good consideration paid or gevven, the saide first conveiance assurance gift graunt demise charge or limitation not by him or them revoked made voyde or altered, accordinge to the power and authoritie reserved or expressed unto him or them in and by the said secrete conveiance assurance gift or graunt, that then the said former conveiance assurance gift demise and graunte, as touching the said landes tenements and hereditamentes so after bargained sold conveyed demised or charged, against the said [bargaines veendes leases graundees[1]] and everie of them, their heires successors executors administrators and assignes, and against all and everie person and persons which have shal or may lawfully claime any thing by from or under them or any of them, shall be demed taken and adjudged to be void frustrate and of none effecte, by vertue and force of this present Acte: Provided neverthelesse that no lawfull morgage, made or to be made bona fide and without fraud or covin upon good consideration, shall be impeached or impaired by force of this Acte, but shall stande in like force and effecte as the same shoulde have done if this Acte had never bene had nor made; any thinge in this Acte to the contrarie in any wise notwithstanding.

Proviso for mortgages.

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[1] bargaines vendees lessees graundees *O: Dup.*

3 CHARLES I. A. D. 1627.

Chapter I.

The Peticion Exhibited to His Majestie by the Lords Spirituall and Temporall and Commons in this present Parliament assembled concerning Divers Rights and Liberties of the Subjects: with the Kings Majesties Royall Aunswere thereunto in full Parliament.

Rot. Parl. nu. 1.

To the Kings Most Excellent Majestie.

Humbly shew unto our soveraigne lord the King the lords spirituall and temporall and commons in Parliament assembled, that whereas it is declared and enacted by a Statute made in the tyme of the raigne of King Edward the First commonly called Statutum de Tallagio non concedendo, that no Tallage or ayde should be layd or levyed by the King or his heires in this realme without the good will and assent of the archbishopps bishopps earles barons knights burgesses and other the freemen of the commonaltie of this realme, and by authoritie of Parliament holden in the five and twentith yeare of the raigne of King Edward the Third, it is declared and enacted, that from thenceforth no person should be compelled to make any loanes to the King against his will because such loanes were against reason and the franchise of the land, and by other lawes of this realme it is provided, that none should be charged by any charge or imposicion called a benevolence nor by such like charge by which the statutes before mencioned and other the good lawes and statutes of this realme your subjects have inherited this freedome that they should [not[1]] be compelled to contribute to any taxe tallage ayde or other like charge not sett by common consent in Parliament.

Reciting that by (25) 34 Ed. I, st. 4, c. 1, by authority of Parliament holden 25 Ed. III, and by other laws of this realm, the king's subjects should not be taxed but by consent in Parliament;

Yet nevertheless of late divers commissions directed to sundry commissioners in severall counties with instruccions have issued, by meanes whereof your people have been in divers places assembled and required to lend certaine sommes of mony unto your Majestie, and many of them uppon their refusall soe to doe have had an oath administered unto them not warrantable by the lawes or statutes of this realme and have been constrayned to become bound to make apparance and give attendance before your privie councell and in other places; and others of them have been therefore imprisoned confined and sundry other waies molested and disquieted and divers other charges have been laid and levied upon your people in severall counties by lord lieutenants deputie lieutenants commissioners for musters justices of peace and others by commaund or direccion from your Majestie or your privie councell against the lawes and free customes of the realme.

II. and that commissions have of late issued on which proceedings have been had contrary to law.

[1] interlined on the roll.

III. Reciting 9 Hen. III. M.C. c. 29.

AND where alsoe by the Statute called the Great Charter of the liberties of England, it is declared and enacted, that no freeman may be taken or imprisoned or be disseised of his freehold or liberties or his free customes or be outlawed or exiled or in any manner destroyed, but by the lawfull judgment of his peeres or by the law of the land.

IV. 28 Edw. III. c. 3;

AND in the eight and twentith yeere of the raigne of King Edward the Third it was declared and enacted by authoritie of Parliament, that no man of what estate or condicion that he be, should be put out of his land or tenements nor taken nor imprisoned nor disherited nor put to death without being brought to aunswere by due processe of lawe.

V. and that divers subjects have been imprisoned without cause shewn, or cause of detainer certified;

NEVERTHELESSE against the tenor of the said statutes and other the good lawes and statutes of your realme to that end provided, divers of your subjects have of late been imprisoned without any cause shewed: And when for their deliverance they were brought before your justices by your Majesties writts of habeas corpus there to undergoe and receive as the court should order, and their keepers commaunded to certifie the causes of their detayner, no cause was certified, but that they were deteined by your Majesties speciall commaund signified by the lords of your privie councell, and yet were returned backe to severall prisons without being charged with any thing to which they might make aunswere according to the lawe.

VI. and that soldiers have been dispersed in divers counties, and inhabitants compelled to receive them.

AND whereas of late great companies of souldiers and marriners have been dispersed into divers counties of the realme, and the inhabitants against their wills have been compelled to receive them into their houses, and there to suffer them to sojourne against the lawes and customes of this realme and to the great greivance and vexacion of the people.

VII. 25 Edw. III.

AND whereas alsoe by authoritie of Parliament in the five and twentith yeare of the raigne of King Edward the Third it is declared and enacted that no man should be forejudged of life or limbe against the forme of the Great Charter and the lawe of the land, and by the said Great Charter, and other the lawes and statutes of this your realme no man ought to be adjudged to death but by the lawes established in this your realme, either by the customes of the same realme or by Acts of Parliament: And whereas no offendor of what kinde soever is exempted from the proceedings to be used and punishments to be inflicted by the lawes and statutes of this your realme, nevertheless of late [tyme[1]] divers commissions under your Majesties great seale have issued forth, by which certaine persons have been assigned and appointed commissioners with power and authoritie to proceed within the land

and that commissions have issued under the great seal for proceed-

[1] interlined on the roll.

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ings according to martiall law.

according to the justice of martiall lawe against such souldiers or marriners or other dissolute persons joyning with them as should committ any murther robbery felony mutiny or other outrage or misdemeanor whatsoever, and by such summary course and order as is agreeable to martiall lawe and as is used in armies in tyme of warr to proceed to the tryall and condemnacion of such offenders, and them to cause to be executed and putt to death according to the lawe martiall.

By pretext whereof some of your Majesties subjects have been by some of the said commissioners put to death, when and where, if by the lawes and statutes of the land they had deserved death, by the same lawes and statutes alsoe they might and by no other ought to have byn judged and executed.

And alsoe sundrie greivous offendors by colour thereof clayming an exempcion have escaped the punishments due to them by the lawes and statutes of this your realme, by reason that divers of your officers and ministers of justice have unjustlie refused or forborne to proceed against such offendors according to the same lawes and statutes uppon pretence that the said offendors were punishable onelie by martiall law and by authoritie of such commissions as aforesaid. Which commissions and all other of like nature are wholly and directlie contrary to the said lawes and statutes of this your realme.

VIII. The petition.

They doe therfore humblie pray your most excellent Majestie, that no man hereafter be compelled to make or yeild any guift loane benevolence taxe or such like charge without common consent by Acte of Parliament, and that none be called to make aunswere or take such oath or to give attendance or be confined or otherwise molested or disquieted concerning the same or for refusall thereof. And that no freeman in any such manner as is before mencioned be imprisoned or deteined. And that your Majestie would be pleased to remove the said souldiers and mariners and that your people may not be soe burthened in tyme to come. And that the aforesaid commissions for proceeding by martiall lawe may be revoked and annulled. And that hereafter no commissions of like nature may issue forth to any person or persons whatsoever to be executed as aforesaid, lest by colour of them any of your Majesties subjects be destroyed or put to death contrary to the lawes and franchise of the land.

All which they most humblie pray of your most excellent Majestie as their rights and liberties according to the lawes and statutes of this realme, and that your Majestie would alsoe vouchsafe to declare that the awards doings and proceedings to the prejudice of your people in any of the premisses shall not be drawen hereafter into consequence or example. And that your Majestie would be alsoe graciouslie pleased for the further comfort and safetie of your people to declare your royall will and pleasure, that in the things aforesaid all your officers and ministers shall serve you according to the lawes and statutes of

this realme as they tender the honor of your Majestie and the prosperitie of this kingdome.

Qua quidem peticione lecta & plenius intellecta per dictum dominum regem taliter est responsum in pleno parliamento videlicet.

R°. Soit droit fait come est desire.

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18 & 19 CHARLES II. A. D. 1666.

CHAPTER XI.

Rot. Parl. 18 & 19, c. 11, nu. 11.

An Act for Redresse of Inconveniencies by want of Proofe of the Deceases of Persons beyond the Seas or absenting themselves, upon whose Lives Estates doe depend.

Recital that cestui que vies have gone beyond sea, and that reversioners cannot find out whether they are alive or dead.

WHEREAS diverse lords of mannours and others have used to grant estates by copy of court roll for one two or more life or lives according to the custome of their severall mannours and have alsoe granted estates by lease for one or more life or lives, or else for yeares determinable upon one or more life or lives and it hath often happened that such person or persons for whose life or lives such estates have beene granted have gone beyond the seas or soe absented themselves for many yeares that the lessors and reversioners cannot finde out whether such person or persons be alive or dead by reason whereof such lessors and reversioners have beene held out of possession of their tenements for many yeares after all the lives upon which such estates depend are dead in regard that the lessors and reversioners when they have brought actions for the recovery of their tenements have beene putt upon it to prove the death of their tennants when it is almost impossible for them to discover the same, for remedy of which mischeife soe frequently happening to such lessors or reversioners bee it enacted by the Kings most excellent Majestie by and with the advice and consent of the lords spirituall and temporall and the commons in this present Parlyament assembled and by the authoritie of the same that if such person or persons for whose life or lives such estates have beene or shall be granted as aforesaid shall remaine beyond the seas or elsewhere absent themselves in this realme by the space of seaven yeares together and noe sufficient and evident proofe be made of the lives of such person or persons respectively in any action commenced for recovery of such tenements by the lessors or reversioners in every such case the person or persons upon whose life or lives such estate depended shall be accounted as naturally dead, and in every action brought for the recovery of the said tenements by the lessors or reversioners their heires or assignes, the judges before whom such action shall be brought shall direct the jury to give their verdict as if the person soe remaining beyond the seas or otherwise absenting himselfe were dead.[1]

Cestui que vies remaining beyond sea for seven years together and no proof of their lives, judge in an action to direct a verdict as though cestui que vie were dead.

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[1] See the Indian Evidence Act (I of 1872), sec. 108.

Section II omitted as inapplicable to India.

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[PROVIDED alwayes and bee it enacted that if any person or [person or [1]] persons shall be evicted out of any lands or tenements by vertue of this Act, and afterwards if such person or persons upon whose life or lives such estate or estates depend shall returne againe from beyond the seas, or shall on proofe in any action to be brought for recovery of the same [to [2]] be made appeare to be liveing, or to have beene liveing at the time of the eviction that then and from thenceforth the tennant or lessee who was outed of the same his or their executors administrators or assignes shall or may reenter repossesse have hold and enjoy the said lands or tenements in his or their former estate for and dureing the life or lives or soe long terme as the said person or persons upon whose life or lives the said estate or estates depend shall be liveing, and alsoe shall upon action or actions to be brought by him or them against the lessors reversioners or tennants in possession or other persons respectively which since the time of the said eviction received the proffitts of the said lands or tenements recover for damages the full proffitts of the said lands or tenements respectively with lawfull interest for and from the time that he or they were outed of the said lands or tenements, and kepte or held out of the same by the said lessors reversioners tennants or other persons who after the said eviction received the proffitts of the said lands or tenements or any of them respectively as well in the case when the said person or persons upon whose life or lives such estate or estates did depend are or shall be dead at the time of bringing of the said action or actions as if the said person or persons were then liveing.[3]

IV. If the supposed dead man prove to be alive, then the title is revested.

Action for mean profits with interest.

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29 CHARLES II. A. D. 1677.

CHAPTER III.

An Act for prevention of Frauds and Perjuryes.[4]

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Rot. Parl. 29, c. II, p. 2, nu. 2.

AND bee it further enacted by the authoritie aforesaid that from and after

VII. Declarations

[1] [2] *O.* omits. [3] Annexed to the original Act in a separate schedule.

[4] Sections 5 and 6, as to devises of land, are in force as to wills made before 1st February 1839, (*Doe* d. *Savage* v. *Tagore*, Morton ed. Montriou, 105,) when Act XXV of 1838 came into operation. Section 5 runs as follows:—

AND bee it further enacted by the authority aforesaid that from and after the said fower and twentyeth day of June all devises and bequests of any lands or tenements deviseable either by force of the Statute of Wills or by this statute or by force of the custome of Kent or the custome of any burrough or any other perticular custome shall be in writeing and signed by the partie soe deviseing the same or by some other person in his presence and by his expresse directions and shall be attested and subscribed in the presence of the said devisor by three or fower credible witnesses or else they shall be utterly void and of none effect. [Rep., except as to wills made before 1st January 1838, 7 Will. 4. & 1 Vict. c. 26. ss. 2, 34.]

V. Devises of lands to be in writing and signed and attested by three or four witnesses.

Sec. 17 was in force in the Presidency Towns (*Mánikji Meherwánji* v. *Rahimtullá Alubhái*,—1 Bomb. App. 1), but this, with secs. 1, 2, 3 and 4, was repealed by Act IX of 1872. Secs. 13, 14, 15, 16, 22, 23 and 24 were repealed by Act XII of 1873.

or creations of trusts of lands to be in writing signed.

the said fower and twentyeth day of June all declarations or creations of trusts or confidences of any lands tenements or hereditaments shall be manifested and proved by some writeing signed by the partie who is by law enabled to declare such trust or by his last will in writeing or else they shall be utterly void and of none effect.

VIII. Proviso for trusts arising, transferred or extinguished by implication of law.

PROVIDED alwayes that where any conveyance shall bee made of any lands or tenements by which a trust or confidence shall or may arise or result by the implication or construction of law or bee transferred or extinguished by an act or operation of law then and in every such case such trust or confidence shall be of the like force and effect as the same would have beene if this statute had not beene made. Any thing hereinbefore contained to the contrary notwithstanding.

IX. Assignments of trusts shall be in writing.

AND bee it further enacted that all grants and assignments of any trust or confidence shall likewise be in writeing signed by the partie granting or assigning the same [or[1]] by such last will or devise or else shall likewise be utterly void and of none effect.

X. Lands, &c., of cestui que trust liable to the judgments, &c.;

AND bee it further enacted by the authoritie aforesaid that from and after the said fower and twentyeth day of June it shall and may be lawfull for every sheriffe or other officer to whome any writt or precept is or shall be directed at the suite of any person or persons of for and upon any judgment statute or recognizance hereafter to be made or had, to doe make and deliver execution unto the partie in that behalfe sueing of all such lands tenements rectories tythes rents and hereditaments as any other person or persons be in any manner of wise seised or possessed [or hereafter shall be seised or possessed[2]] in trust for him against whome execution is soe sued like as the sheriffe or other officer might or ought to have done if the said partie against whome execution hereafter shall be soe sued had beene seised of such lands tenements rectories tythes rents or other hereditaments of such estate as they be seized of in trust for him at the time of the said execution sued. Which lands tenements rectories tythes rents and other hereditaments by force and vertue of such execution shall accordingly be held and enjoyed freed and discharged from all incumbrances of such person or persons as shall be soe seised or possessed in trust for the person against whome such execution shall be sued. And if any cestuy que trust hereafter shall dye leaveing a trust in fee simple to descend to his heire, there, and in every such case such trust shall be deemed and taken and is hereby declared to be assetts by descent and the heire shall be lyable to and chargeable with the obligation of his auncestors for and by reason of such assetts as fully and amply as he might or ought to have

and held free from the incumbrances of the persons seized in trust.

Trust shall be assets by descent.

[1], [2] interlined on the roll.

beene if the estate in law had descended to him in possession in like manner as the trust descended, any law custome or usage to the contrary in any wise notwithstanding.

XI. But heir shall not by reason thereof become chargeable of his own estate.

PROVIDED alwayes that noe heire that shall become chargeable by reason of any estate of trust made assetts in his hands by this law shall by reason of any kinde of plea or confession of the action or suffering judgment by nient dedire or any other matter bee chargeable to pay the condemnation out of his owne estate but execution shall be sued of the whole estate soe made assetts in his hands by descent in whose hands soever it shall come after the writt purchased in the same manner as it is to be at and by the common law where the heire at law pleading a true plea judgment is prayed against him thereupon. Any thing in this present Act contained to the contrary notwithstanding.

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31 CHARLES II. A. D. 1679.

CHAPTER II.

An Act for the better secureing the Liberty of the Subject and for Prevention of Imprisonments beyond the Seas.[1]

Rot. Parl. 31 c. II, nu. 2.

Recital that delays had been used by sheriffs in making returns of writs of habeas corpus, &c.

WHEREAS great delayes have beene used by sheriffes goalers and other officers to whose custody any of the Kings subjects have beene committed for criminall or supposed criminall matters in makeing returnes of writts of habeas corpus to them directed by standing out an alias and pluries habeas corpus and sometimes more and by other shifts to avoid their yielding obedience to such writts contrary to their duty and the knowne lawes of the land whereby many of the Kings subjects have beene and hereafter may be long detained in prison in such cases where by law they are baylable to their great charge and vexation. For the prevention whereof and the more speedy releife of all persons imprisoned for any such criminall or supposed criminall matters bee it enacted by the Kings most excellent Majestie by and with the advice and

Sheriff, &c., within three days after service of habeas corpus,

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[1] "The Advocate General argued that the *Habeas Corpus* Act (31 Car. II, cap. 2) was not part of the statute-law introduced into India. His argument may be well founded as to certain parts of that statute, which apply specially or by name to the superior courts of common law at Westminster. But other parts, which are general in their terms, apparently do apply to India."—*Re Amir Khán*, 6 Beng. 444, per Norman J. See, too, *The King* v. *Gordon*, East's Notes, 2 Morl. Dig. 223. Mr. Anstey, 6 Beng. 418, 420, contended that 56 Geo. III, c. 100 (*for more effectually securing the liberty of the subject*) also applied to India.

The Code of Criminal Procedure (Act X of 1872), section 82, enacts that "neither the High Courts nor any Judge of such High Courts shall issue any writ of *habeas corpus* ..... beyond the Presidency Towns." One effect of this is apparently to revive the power to issue such writs into British India which the Court of Queen's Bench at Westminster possessed down to the year 1826, when 25 Vic., cap. 20, was passed. Writs of *habeas corpus* are not to be issued for any of the seven purposes specified in the High Courts Criminal Procedure Act, X of 1875, section 148.

with the exception of treason and felony, as and under the regulations herein mentioned, to bring up the body before the Court to which the writ is returnable;

consent of the lords spirituall and temporall and commons in this present Parlyament assembled and by the authoritie thereof that whensoever any person or persons shall bring any habeas corpus directed unto any sheriffe or sheriffes goaler minister or other person whatsoever for any person in his or their custody and the said writt shall be served upon the said officer or left at the goale or prison with any of the under-officers under-keepers or deputy of the said officers or keepers that the said officer or officers his or their under-officers under-keepers or deputyes shall within three dayes after the service thereof as aforesaid (unlesse the committment aforesaid were for treason or fellony plainely and specially expressed in the warrant of committment) [upon payment or tender of the charges of bringing the said prissoner to be ascertained by the judge or court that awarded the same and endorsed upon the said writt not exceeding twelve pence per mile[1]] and upon security given by his owne bond to pay the charges of carrying backe the prisoner if he shall bee remanded by the court or judge to which he shall be brought according to the true intent of this present Act and that he will not make any escape by the way make returne of such writt [or[2]] bring or cause to be brought the body of the partie soe committed or restrained unto or before the lord chauncellor or lord-keeper of the great seale of England for the time being or the judges or barons of the said court from whence the said writt shall issue or unto and before such other person [and[3]] persons before whome the said writt is made returnable according to the command thereof, and shall [likewise then[4]] certifie the true causes of his detainer or imprisonment unlesse the committment of the said partie be in any place beyond the distance of twenty miles from the place or places where such court or person is or shall be resideing and if beyond the distance of twenty miles and not above one hundred miles then within the space of ten dayes and if beyond the distance of one hundred miles then within the space of twenty dayes after such [5] delivery aforesaid and not longer.

and certify the true causes of imprisonment.

Exceptions in respect of distance.

II. How writs to be marked.

[And to the intent that noe sheriffe goaler or other officer may pretend ignorance of the import of any such writt bee it enacted by the authoritie aforesaid that all such writts shall be marked in this manner Per statutum tricesimo primo Caroli Secundi Regis and shall be signed by the person that awards the same.[6]] And if any person or persons shall be or stand committed or detained as aforesaid for any crime unlesse for treason or fellony plainely expressed in the warrant of committment in the vacation time and out of terme it shall and may be lawfull to and for the person or persons soe committed or detained (other then persons convict or in execution) by legall processe or any

Persons committed, except for treason and felony, &c., may appeal to the lord chancellor, &c.

[1,6] annexed to the original Act in a separate schedule.
[2] and *O.*
[3] or *O.*
[4] then likewise *O.*
[5] the *O.*

one [in[1]] his or their behalfe to appeale or complaine to the lord chauncellour or lord keeper or any one of his Majestyes justices [either[2]] of the one bench or of the other or the barons of the Exchequer of the degree of the coife and the said lord chauncellor lord keeper justices or barons or any of them upon view of the copy or copyes of the warrant or warrants of committment and detainer or otherwise upon oath made that such copy or copyes were denyed to be given by such person or persons in whose custody the prisoner or prisoners is or are detained are hereby authorized and required [upon request made in writeing by such person or persons or any on his her or their behalfe attested and subscribed by two witnesses [that [3]] were present at the delivery of the same[4]] to award and grant an habeas corpus under the seale of such court whereof he shall then be one of the judges to be directed to the officer or officers in whose custodie the party soe committed or detained shall be returnable immediate before the said [lord chauncellor or [5]] lord-keeper or such justice baron or any other justice or baron of the degree of the coife of any of the said courts and upon service thereof as aforesaid the officer or officers his or their under-officer or under-officers under keeper or under keepers or [their[5]] deputy in whose custodie the partie is soe committed or detained shall within the times respectively before limitted [bring such prisoner or prisoners[7]] before the said lord chauncellor or lord keeper or such justices barons or one of them [before whome the said writt is made returnable and in case of his absence before any other of them[8]] with the returne of such writt and the true causes of the committment and detainer and thereupon within two dayes after the partie shall be brought before them the said lord chauncellor or lord-keeper or such justice or baron before whome the prisoner shall be brought as aforesaid shall discharge the said prisoner from his imprisonment takeing his or their recognizance with one or more suretie or sureties in any summe according to their discretions haveing reguard to the quality of the prisoner and nature of the offence for his or their appearance in the Court of Kings Bench the terme following or at the next assizes sessions or generall goale-delivery of and for such county city or place where the committment was or where the offence was committed or in such other court where the sai offence is properly cognizable as the case shall require and then shall certifie the said writt with the returne thereof and the said recognizance or recognizances into the said court where such appearance is to be made unlesse it shall appeare unto the said lord chauncellor or lord keeper or justice or justices [or [9]] baron or barons that the

Proceedings thereon.

Habeas corpus may be awarded,

and upon service thereof the officer to bring up the prisoners as before mentioned;

and thereupon within two days lord chancellor, &c., may discharge upon recognisance;

and certify the writ with the return and recognisance.

Proviso for

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1 on
2, 5, 7 interlined on the roll
3 who *O.*
4, 8 annexed to the original Act in a separate schedule.
6, 9 *O.* omits.

process not bailable.

party soe committed is detained upon a legall processe order or warrant out of some court that hath jurisdiction of criminall matters or by some warrant signed and sealed with the hand and seale of any of the said justices or barons or some justice or justices of the peace for such matters or offences for the which by the law the prisoner is not baileable.

III. Habeas corpus not granted in vacation to prisoners who have neglected to pray the same.

[PROVIDED alwayes and bee it enacted that if any person shall have wilfully neglected by the space of two whole termes after his imprisonment to pray a habeas corpus for his enlargement such person soe wilfully neglecting shall not have any habeas corpus to be granted in vacation time in pursuance of this Act.[1]]

IV. Officer neglecting, &c., to make the said returns, &c.,

AND bee it further enacted by the authoritie aforesaid that if any officer or officers his or their under-officer or under-officers under-keeper or under-keepers or deputy shall neglect or refuse to make the returnes aforesaid or to bring the body or bodies of the prisoner or prisoners according to the command of the said writt within the respective times aforesaid or upon demand made by the prisoner or person in his behalfe shall refuse to deliver or within the space of six houres after demand shall not deliver to the person soe demanding a true copy of the warrant or warrants of committment and detayner of such prisoner, which he and they are hereby required to deliver accordingly all and every the head goalers and keepers of such prisons and such other person in whose custodie the prisoner shall be detained shall for the first offence forfeite to the prisoner or partie grieved the summe of one hundred pounds and for the second offence the summe of two hundred pounds and shall and is hereby made incapeable to hold or execute his said office, the said penalties to be recovered by the prisoner or partie grieved his executors or administrators against such offender his executors or administrators by any action of debt suite bill plaint or information in any of the Kings courts at Westminster wherein noe essoigne protection priviledge injunction wager of law or stay of prosecution by non vult ulterius prosequi or otherwise shall bee admitted or allowed or any more then one imparlance, and any recovery or judgement at the suite of any partie grieved shall be a sufficient conviction for the first offence and any after recovery or judgement at the suite of a partie grieved for any offence after the first judgement shall bee a sufficient conviction to bring the officers or person within the said penaltie for the second offence.

or upon demand to deliver a copy of warrant of committment;

first offence, penalty £100;

second offence, £200 and incapacity.

Judgment at suit of party sufficient conviction.

V. Proviso as to imprisonment of party after

AND for the prevention of unjust vexation by reiterated committments for the same offence bee it enacted by the authoritie aforesaid that noe person or persons which shall be delivered or sett at large upon any habeas corpus shall

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annexed to the original Act in a separate schedul

at any time hereafter bee againe imprisoned or committed for the same offence by any person or persons whatsoever other then by the legall order and processe of such court wherein he or they shall be bound by recognizance to appeare or other court haveing jurisdiction of the cause and if any other person or persons shall knowingly contrary to this Act recommitt or imprison or knowingly procure or cause to be recommitted or imprisoned for the same offence or pretended offence any person or persons delivered or sett at large as aforesaid or bee knowingly aiding or assisting therein then he or they shall forfeite to the prisoner or party grieved the summe of five hundred pounds any colourable pretence or variation in the warrant or warrants of committment notwithstanding to be recovered as aforesaid.

having been set at large upon habeas corpus.

Unduly recommitting such discharged persons or assisting therein;

penalty to the party £500.

PROVIDED alwayes and bee it further enacted that if any person or persons shall be committed for high treason or fellony plainely and specially expressed in the warrant of committment upon his prayer or petition in open court the first weeke of the terme or first day of the sessions of oyer and terminer or generall goale delivery to be brought to his tryall shall not bee indicted sometime in the next terme sessions of oyer and terminer or generall goale delivery after such committment it shall and may bee lawfull to and for the judges of the Court of Kings Bench and justices of oyer and terminer or generall goale delivery and they are hereby required upon motion to them made in open court the last day of the terme sessions or goale-delivery either by the prisoner or any one in his behalfe to sett at liberty the prisoner upon baile unlesse it appeare to the judges and justices upon oath made that the witnesses for the King could not be produced the same terme sessions or generall goale-delivery. And if any person or persons committed as aforesaid upon his prayer or petition in open court the first weeke of the terme or first day of the sessions of oyer and terminer or generall goale-delivery to be brought to his tryall shall not be indicted and tryed the second terme sessions of oyer and terminer or generall goale-delivery after his committment or upon his tryall shall be acquitted he shall be discharged from his imprisonment.

VI. If persons committed for high treason or felony plainly expressed in warrant shall not on petition be indicted as herein mentioned, judges, &c., may discharge upon bail;

proviso;

and if not indicted and tried as herein mentioned, then to be discharged.

[PROVIDED alwayes that nothing in this Act shall extend to discharge out of prison any person charged in debt or other action or with processe in any civill cause but that after he shall be discharged of his imprisonment for such his criminall offence he shall be kept in custodie according to law for such other suite.[1]]

VII. Proviso respecting persons charged in debt, &c.

PROVIDED alwaies and bee it enacted by the authoritie aforesaid that if any person or persons subject of this realme shall be committed to [any[2]] prison or in custodie of any officer or officers whatsoever for any criminall or supposed

VIII Persons committed for criminal matter not to

[1] annexed to the original Act in a separate schedule.

[2] interlined on the roll.

be removed but by habeas corpus or other legal writ.

criminall matter that the said person shall not be removed from the said prison and custody into the custody of any other officer or officers unlesse it be by habeas corpus or some other legall writt or where the prisoner is delivered to the constable or other inferiour officer to carry such prisoner to some common goale [or where any person is sent by order of any judge of assize or justice of the peace to any common worke-house or house of correction or where the prisoner is removed from one prison or place to another within the same county in order to his or her tryall or discharge in due course of law or in case of suddaine fire or infection or other necessity[1]] and if any person or persons shall after such committment aforesaid make out and signe or countersigne any warrant or warrants for such removeall aforesaid contrary to this Act as well he that makes or signes or countersignes such warrant or warrants as the officer or officers that obey or execute the same shall suffer and incurr the paines and forfeitures in this Act before-mentioned both for the first and second offence respectively to be recovered in manner aforesaid by the partie grieved.

Unduly making out, &c, warrant for removal;

penalty.

IX. Proviso for application for and granting habeas corpus in vacation time Lord Chancellor, &c, unduly denying writ;

PROVIDED alsoe and bee it further enacted by the authoritie aforesaid that it shall and may be lawfull to and for any prisoner and prisoners as aforesaid to move and obtaine his or their habeas corpus as well out of the High Court of Chauncery or Court of Exchequer as out of the Courts of Kings Bench or Common Pleas or either of them and if the said lord chauncellor or lord-keeper or any judge or judges baron or barons for the time being of the degree of the coife of any of the courts aforesaid in the vacation time upon view of the copy or copies of the warrant or warrants of committment or detainer or upon oath made that such copy or [2] copyes were denyed as aforesaid shall deny any writt of habeas corpus by this Act required to be granted being moved for as aforesaid they shall severally forfeite to the prisoner or partie grieved the summe of five hundred pounds to be recovered in manner aforesaid.

penalty to party £500.

[*Section X is omitted as inapplicable to India.*]

XI No subject to be sent prisoner into Scotland, &c, or any parts beyond the seas.

AND for preventing illegall imprisonments imprisons beyond the seas bee it further enacted by the authoritie aforesaid, that noe subject of this realme that now is or hereafter shall be an inhabitant or resiant of this kingdome of England dominion of Wales or towne of Berwicke upon Tweede shall or may be sent prisoner into Scotland Ireland Jersey Gaurnsey Tangeir or into any parts garrisons islands or places beyond the seas which are or at any time hereafter [shall be[3]] within or without the dominions of his Majestie his heires or successors and that every such imprisonment is hereby enacted

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[1] annexed to the original Act in a separate schedule. [2] or *O*. [3] interlined on the roll

and adjudged to be illegall and that if any of the said subjects now is or hereafter shall bee soe imprisoned [every such person and persons soe imprisoned[1]] shall and may for every such imprisonment maintaine by vertue of this Act an action or actions of false imprisonment in any of his Majestye's courts of record against the person or persons by whome he or she shall be soe committed detained imprisoned sent prisoner or transported contrary to the true meaning of this Act and against all or any person or persons that shall frame contrive write seale or countersigne any warrant or writeing for such committment detainer imprisonment or transportation or shall be adviseing aiding or assisting in the same or any of them and the plaintiffe in every such action shall have judgement to recover his treble costs besides damages which damages soe to be given shall not be lesse than five hundred pounds in which action noe delay stay or stopp of proceeding by rule order or command nor noe injunction protection or priviledge whatsoever nor any more then one imparlance shall be allowed [excepting such rule of the court wherein the action shall depend made in open court as shall bee thought in justice necessary for speciall cause to be expressed in the said rule[2]], and the person or persons who shall knowingly frame contrive write seale or countersigne any warrant for such committment detainer or transportation or shall soe committ detaine imprison or transport any person or persons contrary to this Act or be any wayes adviseing aiding or assisting therein being lawfully convicted thereof shall be disabled from thenceforth to beare any office of trust or proffitt within the said realme of England dominion of Wales or towne of Berwicke upon Tweede or any of the islands territories or dominions thereunto belonging and shall incurr and sustaine the paines penalties and forfeitures limitted ordained and provided in [3] the Statute of provision and premunire made in the sixteenth yeare of King Richard the Second and be incapeable of any pardon from the King his heires or successors of the said forfeitures losses or disabilities or any of them.

Persons so imprisoned may maintain action against the person committing or otherwise acting in respect thereof, as herein mentioned.

Treble costs and damages;

and the person so committing or acting disabled from office, and incur premunire—16 R. II. C. 5.

and be incapable of pardon.

XII Proviso for contracts for transportation.

[PROVIDED alwayes that nothing in this Act shall extend to give benefitt to any person who shall by contract in writeing agree with any merchant or owner of any plantation or other person whatsoever to be transported to any parts beyond seas and receive earnest upon such agreement although that afterwards such person shall renounce such contract.[4]]

XIII. And for transportation of persons convicted of felony and

PROVIDED alwayes and bee it enacted that if any person or persons lawfully convicted of any felony shall in open court pray to be transported beyond the seas and the court shall thinke fitt to leave him or them in prison for that purpose such person or persons may be transported into any parts beyond the

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[1] interlined on the roll. [2], [4] annexed to the original Act in a separate schedule [3] and by O

praying to be transported.

seas this Act or anything therein contained to the contrary notwithstanding.

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XV Proviso for sending persons to be tried in places where any capital offence committed.

PROVIDED alsoe that if any person or persons at any time resiant in this realme shall have committed any capitall offence in Scotland or Ireland or any of the islands or forreigne plantations of the King his heires or successors where he or she ought to be tryed for such offence such person or persons may be sent to such place there to receive such tryall in such manner as the same might have beene used before the makeing of this Act anything herein contained to the contrary notwithstanding.

XVI. Limitation of prosecution for offences against this Act.

PROVIDED alsoe and bee it enacted that noe person or persons shall be sued impleaded molested or troubled for any offence against this Act unlesse the partie offending be sued or impleaded for the same within two yeares at the most after such time wherein the offence shall be committed [in case the partie grieved shall not be then in prison and if he shall be in prison then within the space of two yeares [1]] after the decease of the person imprisoned or his or her delivery out of prison which shall first happen.

XVII. After assizes proclaimed, no person to be removed from common gaol upon habeas corpus, but brought before judge of assize.

AND to the intent noe person may avoid his tryall at the assizes or generall goale-delivery by procureing his removeall before the assizes at such time as he cannot be brought backe to receive his tryall there bee it enacted that after the assizes proclaimed for that country where the prisoner is detained noe person shall be removed from the common goale upon any habeas corpus granted in pursuance of this Act but upon any such habeas corpus shall be brought before the judge of assize in open court who is thereupon to doe what to justice shall appertaine.

XVIII. After assizes persons detained may have habeas corpus.

PROVIDED neverthelesse that after the assizes are ended any person or persons detained may have his or her habeas corpus according to the direction and intention of this Act.

XIX. In informations, &c., brought for offence against this law; general issue.

AND bee it also enacted by the authoritie aforesaid that if any information suite or action shall be brought or exhibited against any person or persons for any offence committed or to be committed against the forme of this law it shall be lawfull for such defendants to pleade the generall issue that they are not guilty or that they owe nothing and to give such speciall matter in evidence to the jury that shall try the same which matter being pleaded had beene good and sufficient matter in law to have discharged the said defendant or defendants against the said information suite or action and the said matter shall be then as availeable to him or them to all intents and purposes

[1] annexed to the original Act in a separate schedule.

as if he or they had sufficiently pleaded sett forth or alledged the same matter in barr or discharge of such information suite or action.

XX. Proviso as to removal or bail of persons charged as accessories before the fact to petty treason or felony.

And because many times persons charged with petty treason or felony or as accessaries thereunto are committed upon suspicion onely whereupon they are baileable or not according as the circumstances makeing out that suspicion are more or lesse weighty which are best knowne to the justices of peace that committed the persons and have the examinations before them or to other justices of the peace in the county. Bee it therefore enacted that where any person shall appeare to be committed by any judge or justice of the peace and charged as accessary before the fact to any petty treason or felony or upon suspicion thereof or with suspicion of petty treason or felony which petty treason or felony shall be plainely and specially expressed in the warrant of committment that such person shall not be removed or bailed by vertue of this Act or in any other manner then they might have beene before the makeing of this Act.

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1 WILLIAM & MARY. A. D. 1688.

Chapter VI.

An Act for Establishing the Coronation Oath.

Rot. Parl. p. 5. nu 3.

Whereas by the law and ancient usage of this realme the Kings and Queens thereof have taken a solemne oath upon the Evangelists at their respective coronations to maintaine the statutes laws and customs of the said realme and all the people and inhabitants thereof in their spirituall and civill rights and properties But forasmuch as the oath itselfe on such occasion administred hath heretofore beene framed in doubtfull words and expressions with relation to ancient laws and constitutions at this time unknowne To the end therefore that one uniforme oath may be in all times to come taken by the Kings and Queens of this realme and to them respectively administred at the times of their and every of their coronation.

Oath heretofore framed in doubtful words.

II. May it please your Majesties that it may be enacted and bee it enacted by the King and Queens most excellent Majestyes by and with the advice and consent of the lords spirituall and temporall and the commons in this present Parlyament assembled and by the authoritie of the same that the oath hereinmentioned and hereafter expressed shall and may be administred to their most excellent Majestyes King William and Queene Mary (whome God long preserve) at the time of their coronation in the presence of all persons that shall be then and there present at the solemnizeing thereof by the Archbishop of Canterbury or the Archbishop of Yorke or either of them or any

Oath hereafter mentioned to be administered,

by the Archbishop of Canterbury, &c.

other bishop of this realme whome the King's Majesty shall thereunto appoint and who shall be hereby thereunto respectively authorized which oath followeth and shall be administred in this manner that is to say,

III. The arch-bishop or bishop shall say,

Form of oath and administration thereof.

Will you solemnely promise and sweare to governe the people of this Kingdome of England and the dominions thereto belonging according to the statutes in Parlyament agreed on and the laws and customs of the same?

The King and Queene shall say,

I solemnly promise soe to doe.

Arch bishop or bishop,

Will you to your power cause law and justice in mercy to be executed in all your judgements.

King and Queene,

I will.

Arch bishop or bishop.

Will you to the utmost of your power maintaine the laws of God the tru profession of the Gospell and the Protestant reformed religion established by law? And will you preserve unto the bishops and clergy of this realme and to the churches committed to their charge all such rights and priviledges as by law doe or shall appertaine unto them or any of them.

King and Queene.

All this I promise to doe.

After this the King and Queene laying his and her hand upon the Holy Gospells, shall say,

King and Queene

The things which I have herebefore promised I will performe and keepe soe help me God.

Then the King and Queene shall kisse the booke.

Oath to be administered to all future Kings and Queens.

IV. And bee it further enacted that the said oath shall be in like manner administred to every King or Queene who shall succeede to the imperiall crowne of this realme at their respective coronations by one of the arch-bishops or bishops of this realme of England for the time being to be thereunto appointed by such King or Queene respectively and in the presence of all persons that shall be attending assisting or otherwise present at such their respective coronations any law statute or usage to the contrary notwithstanding.

1 WILLIAM & MARY, Sess. II. A. D. 1688.

Chapter II.

An Act declareing the Rights and Liberties of the Subject and Setleing the Succession of the Crowne.

Rot Parl p 3. nu. 1.

Whereas the lords spirituall and temporall and commons assembled at Westminster lawfully fully and freely representing all the estates of the people of this realme did upon the thirteenth day of February in the yeare of our Lord one thousand six hundred eighty eight present unto their Majesties then called and known by the names and stile of William and Mary Prince and Princesse of Orange being present in their proper persons a certaine declaration in writeing made by the said lords and commons in the words following viz.

The heads of declaration of lords and commons, recited.

Whereas the late King James the Second by the assistance of diverse evill councellors judges and ministers imployed by him did endeavour to subvert and extirpate the Protestant religion and the lawes and liberties of this Kingdome

Dispensing and suspending power.

By assumeing and exerciseing a power of dispensing with and suspending of lawes and the execution of lawes without consent of Parlyament.

Committing prelates.

By committing and prosecuting diverse worthy prelates for humbly petitioning to be excused from concurring to the said assumed power.

Ecclesiastical commission.

By issueing and causeing to be executed a commission under the great seale for erecting a court called the court of commissioners for ecclesiasticall causes.

Levying money.

By levying money for and to the use of the Crowne by pretence of prerogative for other time and in other manner than the same was granted by Parlyament.

Standing army.

By raising and keeping a standing army within this Kingdome in time of peace without consent of Parlyament and quartering soldiers contrary to law.

Disarming Protestants, &c

By causing severall good subjects being protestants to be disarmed at the same time when papists were both armed and imployed contrary to law.

Violating elections.

By violating the freedome of election of members to serve in Parlyament.

Illegal prosecutions.

By prosecutions in the Court of Kings Bench for matters and causes cognizable onely in Parlyament and by diverse other arbitrary and illegall courses.

Jurors.

And whereas of late yeares partiall corrupt and unqualifyed persons have beene returned and served on juryes in tryalls and particularly diverse jurors in tryalls for high treason which were not freeholders,

Excessive bail

And excessive baile hath beene required of persons committed in criminall cases to elude the benefitt of the lawes made for the liberty of the subjects.

Fines.

And excessive fines have beene imposed.

Punishments

And illegall and cruell punishments inflicted.

Grants of fines, &c., before conviction, &c.

And severall grants and promises made of fines and forfeitures before any conviction or judgement against the persons upon whome the same were to be levyed.

All which are utterly and directly contrary to the knowne lawes and statutes and freedome of this realme.

Recital that the late King James II. had abdicated the government, and that the throne was vacant, and that the Prince of Orange had written letters to the lords and commons for the choosing representatives in Parliament.

And whereas the said late King James the Second haveing abdicated the government and the throne being thereby vacant His [Highnesse[1]] the Prince of Orange (whome it hath pleased Almighty God to make the glorious instrument of delivering this Kingdome from popery and arbitrary power) did (by the advice of the lords spirituall and temporall and diverse principall persons of the commons) cause letters to be written to the lords spirituall and temporall being protestants and other letters to the severall countyes cityes universities burroughs and cinque ports for the choosing of such persons to represent them as were of right to be sent to Parlyament to meete and sitt at Westminster upon the two and twentyeth day of January in this yeare one thousand six hundred eighty and eight in order to such an establishment as that their religion lawes and liberties might not againe be in danger of being subverted, upon which letters elections haveing beene accordingly made.

The subjects' rights.

And thereupon the said lords spirituall and temporall and commons pursuant to their respective letters and elections being now assembled in a full and free representative of this nation takeing into their most serious consideration the best meanes for attaining the ends aforesaid doe in the first place (as their auncestors in like case have usually done) for the vindicating and asserting their auntient rights and liberties, declare

Suspending power.

That the pretended power of suspending of laws or the execution of laws by regall authority without consent of Parlyament is illegall.

Late dispensing power.

That the pretended power of dispensing with laws or the execution of laws by regall authoritie as it hath beene assumed and exercised of late is illegall.

Ecclesiastical courts illegal.

That the commission for erecting the late court of commissioners for ecclesiasticall causes and all other commissions and courts of like nature are illegall and pernicious.

Levying money.

That levying money for or to the use of the Crowne by pretence of prerogative without grant of Parlyament for longer time or in other manner than the same is or shall be granted is illegall.

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[1] Highnesse *O*

That it is the right of the subjects to petition the King and all commitments and prosecutions for such petitioning are illegall. Right to petition.

That the raising or keeping a standing army within the kingdome in time of peace unlesse it be with consent of Parlyament is against law. Standing army.

That the subjects which are protestants may have arms for their defence suitable to their conditions and as allowed by law. Subjects' arms.

That election of members of Parlyament ought to be free. Freedom of election.

That the freedome of speech and debates or proceedings in Parlyament ought not to be impeached or questioned in any court or place out of Parlyament. Freedom of speech.

That excessive baile ought not to be required nor excessive fines imposed nor cruell and unusuall punishments inflicted. Excessive bail.

That jurors ought to be duely impannelled and returned and jurors which passe upon men in trialls for high treason ought to be freeholders. [Rep., 6 Geo. 4., c. 50., s. 62. Juries.

That all grants and promises of fines and forfeitures of particular persons before conviction are illegall and void. Grants of forfeitures.

And that for redresse of all grievances and for the amending strengthening and preserveing of the lawes Parlyaments ought to be held frequently. Frequent Parliaments.

And they doe claime demand and insist upon all and singular the premises as their undoubted rights and liberties and that noe declarations judgements doeings or proceedings to the prejudice of the people in any of the said premises ought in any wise to be drawne hereafter into consequence or example. To which demand of their rights they are particularly encouraged by the declaration of his Highnesse the Prince of Orange as being the onely meanes for obtaining a full redresse and remedy therein. Haveing therefore an intire confidence that his said Highnesse the Prince of Orange will perfect the deliverance soe farr advanced by him and will still preserve them from the violation of their rights which they have here asserted and from all other attempts upon their religion rights and liberties. The said lords spirituall and temporall and commons assembled at Westminster doe resolve that William and Mary Prince and Princesse of Orange bè and be declared King and Queene of England France and Ireland and the dominions thereunto belonging to hold the crowne and royall dignity of the said kingdomes and dominions to them the said prince and princesse dureing their lives and the life of the survivour of them And that the sole and full exercise of the regall power be onely in and executed by the said Prince of Orange in the names of the said prince and princesse dureing their joyant lives and after their deceases the said crowne and royall dignitie of the said kingdoms and dominions to be to the heires of the body of the said princesse and for default of such

The said rights claimed.

Tender of the Crown.

Regal power exercised.

issue to the Princesse Anne of Denmarke and the heirs of her body and for default of such issue to the heires of the body of the said Prince of Orange. And the lords spirituall and temporall and commons doe pray the said prince and [1] princesse to accept the same accordingly. And that the oathes hereafter mentioned be taken by all persons of whome the oathes of allegiance and supremacy might be required by law instead of them and that the said oathes of allegiance and supremacy be abrogated.

Limitation of the crown. New oaths of allegiance, &c.

Allegiance.

I A B doe sincerely promise and sweare that I will be faithfull and beare true allegiance to their Majestyes King William and Queene Mary.

Soe helpe me God.

Supremacy.

I A B doe sweare that I doe from my heart abhorr, detest and abjure as impious and hereticall this damnable doctrine and position that princes excommunicated or deprived by the Pope or any authority of the see of Rome may be deposed or murdered by their subjects or any other whatsoever. And I doe declare that noe forreigne prince person prelate, state or potentate hath or ought to have any jurisdiction power superiority preeminence or authoritie ecclesiasticall or spirituall within this realme.

Soe helpe me God [Virtually repealed].

Acceptance of the crown.

Upon which their said Majestyes did accept the crowne and royall dignitie of the kingdoms of England France and Ireland and the dominions thereunto belonging according to the resolution and desire of the said lords and commons contained in the said declaration. And thereupon their Majestyes were pleased that the said lords spirituall and temporall and commons being the two Houses of Parlyament should continue to sitt and with their Majesties royall concurrence make effectuall provision for the setlement of the religion lawes and liberties of this kingdome soe that the same for the future might not be in danger againe of being subverted, to which the said lords spirituall and temporall and commons did agree and proceede to act accordingly. Now in pursuance of the premisses the said lords spirituall and temporall and commons in Parlyament assembled for the ratifying confirming and establishing the said declaration and the articles clauses matters and things therein contained by the force of a law made in due forme by authority of Parlyament doe pray that it may be declared and enacted that all and singular the rights and liberties asserted and claimed in the said declaration are the true auntient and indubitable rights and liberties of the people of this kingdome and soe shall be esteemed allowed adjudged deemed and taken to be and that all and every the particulars aforesaid shall be firmly and strictly holden and observed as they are expressed in the said declaration And all

The two Houses to sit.

Subjects' liberties to be allowed,

[1] and *O.*

officers and ministers whatsoever shall serve their Majestyes and their successors according to the same in all times to come. And the said lords spirituall and temporall and commons seriously considering how it hath pleased Almighty God in his marvellous providence and mercifull goodness to this nation to provide and preserve their said Majestyes royall persons most happily to raigne over us upon the throne of their auncestors for which they render unto him from the bottome of their hearts their humblest thanks and praises doe truely firmely assuredly and in the sincerity of their hearts thinke and doe hereby recognize acknowledge and declare that King James the Second haveing abdicated the government and their Majestyes haveing accepted the crowne and royall dignity [as[1]] aforesaid their said Majestyes did become were are and of right ought to be by the lawes of this realme our soveraigne liege lord and lady King and Queene of England France and Ireland and the dominions thereunto belonging in and to whose princely persons the royall state crowne and dignity of the said realmes with all honours stiles titles regalities prerogatives powers jurisdictions and authorities to the same belonging and appertaining are most fully rightfully and intirely invested and incorporated united and annexed And for preventing all questions and divisions in this realme by reason of any pretended titles to the crowne and for preserveing a certainty in the succession thereof in and upon which the unity peace tranquillity and safety of this nation doth under God wholly consist and depend the said lords spirituall and temporall and commons doe beseech their Majestyes that it may be enacted established and declared that the crowne and regall government of the said kingdoms and dominions with all and singular the premisses thereunto belonging and appertaining shall bee and continue to their said Majestyes and the survivour of them dureing their lives and the life of the survivour of them and that the entire perfect and full exercise of the regall power and government be onely in and executed by his Majestie in the names of both their Majestyes dureing their joynt lives and after their deceases the said crowne and premisses shall be and remaine to the heires of the body of her Majestie and for default of such issue to her royall Highnesse the Princess Anne of Denmarke and the heires of her body and for default of such issue to the heires of the body of his said Majestie And thereunto the said lords spirituall and temporall and commons doe in the name of all the people aforesaid most humbly and faithfully submitt themselves their heires and posterities for ever and doe faithfully promise that they will stand to maintaine and defend their said Majesties and

and ministers hereafter to serve according to the same. William and Mary declared King and Queen.

Limitation of the crown.

[1] interlined on the roll.

alsoe the limitation and succession of the crowne herein specified and contained to the utmost of their powers with their lives and estates against all persons whatsoever that shall attempt anything to the contrary. And whereas it hath beene found by experience that it is inconsistent with the safety and welfaire of this protestant kingdome to be governed by a popish prince or by any King or Queene marrying a papist the said lords spirituall and temporall and commons doe further pray that it may be enacted that all and every person and persons that is are or shall be reconciled to or shall hold communion with the see or church of Rome or shall professe the popish religion or shall marry a papist shall be excluded and be for ever uncapeable to inherit possesse or enjoy the crowne and government of this realme and Ireland and the dominions thereunto belonging or any part of the same or to have use or exercise any regall power authoritie or jurisdiction within the same [And in all and every such case or cases the people of these realmes shall be and are hereby absolved of their allegiance[1]] and the said crowne and government shall from time to time descend to and be enjoyed by such person or persons being protestants as should have inherited and enjoyed the same in case the said person or persons soe reconciled holding communion or professing or marrying as aforesaid were naturally dead [And that every King and Queene of this realme who at any time hereafter shall come to and succeede in the imperiall crowne of this kingdome shall on the first day of the meeting of the first Parlyament next after his or her comeing to the crowne sitting in his or her throne in the House of Peeres in the presence of the lords and commons therein assembled or at his or her coronation before such person or persons who shall administer the coronation oath to him or her at the time of his or her takeing the said oath (which shall first happen) make subscribe and audibly repeate the declaration mentioned in the Statute made in the thirtyeth yeare of the raigne of King Charles the Second entituled An Act for the more effectuall preserveing the King's person and government by disableing papists from sitting in either House of Parlyament [2]. But if it shall happen that such King or Queene upon his or her

Papists debarred the crown

Every King, &c., shall make the declaration of 30 Car II.

If under 12 years old, to

[1] Annexed to the original Act in a separate schedule.

[2] The declaration is as follows:—

I A · B doe solemnely and sincerely in the presence of God professe testifie and declare that I do believe that in the sacrament of the Lord's Supper there is not any transubstantiation of the elements of bread and wine into the body and blood of Christ at or after the consecration thereof by any person whatsoever; and that the invocation or adoration of the Virgin Mary or any other saint, and the sacrifice of the masse as they are now used in the Church of Rome are superstitious and idolatrous, and I doe solemnely in the presence of God professe testifie and declare that I doe make this declaration and every part thereof in the plaine and ordinary sence of the words read unto me as they are commonly understood by English protestants without any evasion, equivocation or mentall reservation whatsoever and without any dispensation already granted me for this purpose by the Pope or any other authority or person whatsoever or without any hope of any such dispen-

succession to the crowne of this realme shall be under the age of twelve yeares then every such King or Queene shall make subscribe and audibly repeate the said declaration at his or her coronation or the first day of the meeting of the first Parlyament as aforesaid which shall first happen after such King or Queene shall have attained the said age of twelve yeares[1] All which their Majestyes are contented and pleased shall be declared enacted and established by authoritie of this present Parliament and shall stand remaine and be the law of this realme for ever And the same are by their said Majesties by and with the advice and consent of the lords spirituall and temporall and commons in Parlyament assembled and by the authoritie of the same declared enacted and established accordingly

be done after attainment thereof.

King's and Queen's assent.

II. Non obstantes made void.

AND bee it further declared and enacted by the authoritie aforesaid that from and after this present session of Parlyament noe dispensation by non obstante of or to any statute or any part thereof shall be allowed but that the same shall be held void and of noe effect except a dispensation be allowed of in such statute [and except in such cases as shall be specially provided for by one or more bill or bills to be passed durcing this present session of Parliament.[2]]

Exception.

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2 WILLIAM & MARY. A. D. 1689.

CHAPTER I.

An Act for Recognizing King William and Queene Mary and for avoiding all Questions touching the Acts made in the Parliament assembled at Westminster the thirteenth day of February one thousand six hundred eighty-eight.

Rot. Parl. p. 1. nu. 1.

King and Queen recognized.

WEE your Majestyes most humble and loyall subjects the lords spirituall and [3] temporall and commons in this present Parlyament assembled doe beseech your most excellent Majestyes that it may be published and declared in this High Court of Parlyament and enacted by authoritie of the same that

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sation from any person or authority whatsoever or without thinking that I am or can be acquitted before God or man or absolved of this declaration or any part thereof although the Pope or any other person or persons or power whatsoever should dispence with or annull the same, or declare that it was null and void from the begining.]

[1], [2] Annexed to the original Act in a separate schedule.

[3] and *O.*

we doe recognize and acknowledge your Majestyes were are and of right ought to be by the laws of this realme our soveraigne liege lord and lady King and Queene of England France and Ireland and the dominions thereunto belonging in and to whose princely persons the royall state crowne and dignity of the said realms with all honours stiles titles regalities prerogatives powers jurisdictions and authorities to the same belonging and appertaining are mostfully rightfully and intirely invested and incorporated united and annexed. And for the avoiding of all disputes and questions concerning the being and authority of the late Parliament assembled at Westminster the thirteenth day of February one thousand six hundred eighty [eight[1]] wee doe most humbly beseech your Majestyes that it may be enacted and bee it enacted by the King and Queenes most excellent Majestyes by and with the advice and consent of the lords spirituall and temporall and commons in this present Parlyament assembled and by authoritie of the same that all and singular the Acts made and enacted in the said Parlyament were and are laws and statutes of this kingdome and as such ought to be reputed taken and obeyed by all the people of this kingdome.

The Acts of the said Parliament were and are laws and statutes, and to be obeyed.

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4 WILLIAM & MARY. A. D. 1692.

Chapter XVI.

An Act to prevent Frauds by clandestine Mortgages.

Rot. Parl., p. 4, nu. 2.

Recital that frauds are practised by necessitous persons in borrowing money

Whereas great frauds and deceits are too often practised by necessitous and evil disposed persons in borrowing of money and giving judgments statutes and recognizances privately for securing the repayment of the said money and the same persons do afterwards borrow money upon security of their lands of other persons and do not acquaint the latter lender thereof with the same whereby such late lender is very often in danger to lose his whole money or forced to pay of the debts secured by the said judgments statutes and recognizances before they can have any benefitt of the said mortgages. And whereas divers persons do many times mortgage their lands more then once without giving notice of their first mortgage whereby lenders of money vpon second or after mortgages doe often lose their money and are put to great charges in suits and otherwise. For remedy whereof and preventing the same as much as may be for the future be it enacted by the King

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[1] interlined on the roll.

and Queens most excellent Majesties by and with the advice and consent of the lords spiritual and temporal and the commons in this present Parliament assembled and by the authority of the same that if any person or persons from and after the first day of May which shall be in the yeare of our Lord one thousand six hundred ninety and three shall borrow any money or for any other valuable consideration for the payment thereof voluntarily give acknowledge permitt or suffer to be entered against him or them one or more judgment or judgments statute or statutes recognizance or recognizances to any person or persons, creditor or creditors. And if the said borrower or borrowers debter or debters shall afterwards take upp or borrow any other sum or sums of money of any other person or persons or for other valuable consideration become indebted to such person or persons and for secureing the repayment and discharge thereof shall mortgage his her or their lands or tenements or any part thereof to the said second or other lender or lenders of the said money creditor or creditors or to any other person or persons in trust for or to the use of such second or other lender or lenders creditor or creditors and shall not give notice to the said mortgagee or mortgagees of the said judgment or judgments statute or statutes recognizance or recognizances in writing under his her or their hand or hands before the execution of the said mortgage or mortgages unlesse such mortgager or mortgagers his her or their heires vpon notice to him her or them given by the mortgagee or mortgagees of the said lands and tenements his her or their heirs executors administrators or assigns in writing vnder his her or their hands and seals attested by two or more sufficient witnesses of any such former judgment or judgments statute or statutes recognizance or recognizances shall within six months pay of and discharge the said judgment or judgments statute or statutes recognizance or recognizances and all interest and charges due thereupon and cause or procure the same to be vacated or discharged by record that then the mortgager or mortgagers of the said lands and tenements his her or their heires executors administrators or assigns shall have no benefitt or remedy against the said mortgagee or mortgagees his her or their heires executors administrators or assigns or any of them in equity or elsewhere for redemption of the said lands and tenements or any part thereof. But the said mortgagee or mortgagees his her or their heirs executors administrators and assigns shall and may hold and enjoy the said lands and tenements for such estate and term therein as were or was granted and settled to the said mortgagee or mortgagees against the said mortgager or mortgagers [and[1]] all person or persons lawfully claiming from by or vnder him her or them freed from equity of redemption and as fully to all

Debtor upon judgment, &c., taking up money of another upon mortgage, without notice of the judgment to the mortgagee, unless upon notice by the mortgagee he pay off the same within six months, shall lose his equity to redeem;

and mortgagee may hold the land against the said mortgagor for such estate as was granted to him.

[1] *O.* omits.

intents and purposes whatsoever as if the same had been purchased absolutely and without any power or liberty of redemption.

II. Persons having mortgaged and mortgaging again without notice to the second or other succeeding mortgagee, to lose his equity of redemption.

And be it further enacted by the authority aforesaid that if any person or persons who have or hath once mortgaged or from and after the said first day of May shall mortgage any lands or tenements to any person or persons for security of money lent or otherwise accrued or become due or for other valuable considerations and if the said [mortgager[1]] or [mortgagers[2]] shall again mortgage the same lands or tenements or any part thereof to any other person or persons for valuable considerations (the said former mortgage being in force and not discharged) and shall not discover to the said second or other mortgagee or mortgagees or some or one of them the former mortgage or mortgages in writing under his or their hands that then and in those cases also the said [mortgager[3]] or [mortgagers[4]] his her on their heires executors administrators or assigns shall have no relief or equity of redemption against the said second or after mortgagee or mortgagees his her or their heires executors administrators or assignes upon the said after mortgage or mortgages but that such mortgagee or mortgagees his ([5]) or their heirs executors administrators and assigns shall and may hold and enjoy such more then once mortgaged lands and tenements for such estate and terme therein as were or was granted and conveyed by the said [mortgager[6]] or [mortgagers[7]] against him her or them his her or their heires executors or administrators respectively freed from equity of redemption and as fully to all intents and purposes as if the same had been [and[8]] absolute purchase and without any power or liberty of redemption.

III Under-mortgagees may redeem

Provided always and be it further enacted by the authority aforesaid that neverthelesse if it so happen there be more then one mortgage att the same time made by any person or persons to any person or persons of the same lands and tenements the several late or under mortgagees his her or their heirs executors administrators or assigns shall have power to redeem any former mortgage or mortgages upon payment of the principal debt interest and costs of suit to the prior mortgagee or mortgagees his her or their heires executors administrators or assigns any thing herein contained to the contrary thereof in any wise notwithstanding.

IV. Proviso for dower.

Provided always that nothing in this Act contained shall be construed deemed or extended to bar any widow of any [mortgager[9]] of lands or tenements from her dower and right in or to the said lands who did not legally join with her husband in such mortgage or otherwise lawfully bar or exclude herselfe from such her dower or right.

1, 3, 6, 9 mortgagor *O.* 2, 4, 7 mortgagors *O.* 5 her *O.* 8 an *O.*

9 WILLIAM III. A. D. 1697-8.

CHAPTER XVII.

An Act for the better Payment of Inland Bills of Exchange.[1]

Rot. Parl. 9 Gul. III. p. 3, n 8.

WHEREAS great damages and other inconveniences do frequently happen in the course of trade and commerce by reason of delays of payment and other neglects on inland bills of exchange in this kingdome. Be it therefore enacted by the Kings most excellent Majesty by and with the advice and consent of the lords spiritual and temporal and the commons in this present Parliament assembled and by the authority of the same that from and after the foure and twentieth day of June next which shall be in the yeare one thousand six hundred ninety eight all and every bill or bills of exchange drawne in or dated att and from any trading citty or towne or any other place in the kingdome of England dominion of Wales or towne of Berwick upon Tweed of the summ of five pounds sterling or upwards upon any person or persons of or in London or any other trading city towne or any other place (in which said bill or bills of exchange shall be acknowledged and expressed the said value to be received) and is and shall be drawne payable att a certaine number of days weeks or months after date thereof that from and after presentation and acceptance of the said bill or bills of exchange (which acceptance shall be by the under writing the same under the parties hand so accepting) and after the expiration of three days after the said bill or bills shall become due the party to whom the said bill or bills are made payable his servant agent or assignes may and shall cause the said bill or bills to be protested by a notary publick and in default of such notary publick by any other substantial person of the city towne or place in the presence of two or more credible witnesses refusal or neglect being first made of due payment of the same which protest shall be made and written under a faire written coppy of the said bill of exchange in the words or forme following.

Inland bills of exchange for £5 and upwards, on non-payment, as herein mentioned, may be protested.

Form of protest.

Know all men that I A. B. on the day of att the usuall place of abode of the said have demanded payment of the bill of the which the above is the coppy which the said did not pay wherefore I the said doe hereby protest the said bill.

Dated[2] this day of

Notice of protest to party from whom

Which protest so made as aforesaid shall within fourteene days after making thereof be sent or otherwise due notice shall be given [thereof[3]] to the party

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[1] This statute is in its terms confined to England. But there seems no other ground for the power in India of the holder of an inland bill to protest it for non-payment. See Acts VI of 1840 and V of 1866, secs. 11—14.

[2] at O.

[3] interlined on the roll.

bill received, who is to repay the same with interest and charges. Persons neglecting to make protest liable to interest and costs.

from whom the said bill or bills were received who is upon produceing such protest to repay the said bill or bills together with all interest and charges from the day such bill or bills were protested for which protest shall be paid a summ not exceeding the sum of six pence. And in default or neglect of such protest made and sent or due notice given within the days before limitted the person so failing or neglecting thereof is and shall be liable to all costs damages and interest which do and shall accrue thereby.

II Proviso that where bill lost, drawer to give another of same tenor, on being indemnified.

PROVIDED nevertheless that in case any such inland bill or bills of exchange shall happen to be lost or miscarried within the time before limitted for payment of the same then the drawer of the said bill or bills is and shall be oblidged to give an other bill or bills of the same tenour with those first given the person or persons to whom they are and shall be so delivered giving security if demanded to the said drawer to indemnifie him against all persons whatsoever in case the said bill or bills of exchange so alleadged to be lost or miscarried shall be found againe.

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10 WILLIAM III. A. D. 1698.

CHAPTER XXII.[1]

Rot Parl 10, Gul. III, p. 4, n. 7.

An Act to enable Posthumus Children to take Estates as if borne in their Fathers Lifetime.

Reasons for passing this Act.

WHEREAS it often happens that by marriage and other settlements estates are limited in remainder to the use of the sons and daughters the issue of such marriage with remainders over without limiting an estate to trustees to preserve the contingent remainders limited to such sons and daughters by which meanes such sons and daughters if they happen to be borne after the decease of their father are in danger to be defeated of their remainder by the next in remainder after them and left unprovided for by such settlements contrary to the intent of the parties that made those settlements Be it enacted by the Kings Most Excellent Majesty by and with the advice and consent of the lords spirituall and temporall and commons in this present Parliament assembled and by the authority of the same that where any estate already is or shall hereafter by any marriage or other settlement be limited in remainder to or to the use of the first or other son or sons of the body of any person lawfully begotten with any remainder or remainders over to or to the use of any other person or persons or in remainder to or to the use of a daughter or daughters lawfully begotten with any remainder or remainders to any other

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[1] This is Cap. XVI in the common printed editions

person or persons that any son or sons or daughter or daughters of such person or persons lawfully begotten or to be begotten that shall be borne after the decease of his her or their father shall and may by virtue of such settlement take such estate so limited to the first and other sons or to the daughter or daughters in the same manner as if borne in the life time of his her or their father although there shall happen no estate to be limited to trustees after the decease of the father to preserve the contingent remainder to such after-borne son or sons daughter or daughters untill he she or they come in esse or are borne to take the same any law or usage to the contrary in any wise notwithstanding.

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11 WILLIAM III. A. D. 1698-99.

Chapter XII.

An Act to punish Governors of Plantations in this Kingdom for Crimes by them committed in the Plantations.

Rot. Parl. 11 Gul. III. p. 3, nu. 3.

Reasons for passing this Act.

Whereas a due punishment is not provided for severall crimes and offences committed out of this his Majesties realme of England whereof divers governors lieutenant governors deputy governors or commanders-in-chiefe of plantations and colonies within his Majesties dominions beyond the seas have taken advantage and have not been deterred from oppressing his Majesties subjects within their respective governments and commands nor from committing severall other great crimes and offences not deeming themselves punishable for the same here nor accountable for such their crimes and offences to any person within their respective governments and commands For remedy whereof be it enacted by the Kings most excellent Majesty by and with the advice and consent of the lords spirituall and temporall and commons in Parliament assembled and by the authority of the same that if any governor lieutenant-governor deputy governor or commander-in-chiefe of any plantation or colony within his Majesties dominions beyond the seas shall after the first day of August one thousand seaven hundred be guilty of oppressing any of his Majesties subjects beyond the seas within their respective governments or commands or shall be guilty of any other crime or offence contrary to the laws of this realme or in force within their respective governments or commands such oppressions crimes and offences shall be enquired of heard and determined in his Majesties Court of Kings Bench here in England or before such commissioners and in such county of this realme as shall be assigned by his Majesties commission and by good and lawfull men of the same county and that such punishments shall be inflicted on such offenders as are usually inflicted for offences of like nature committed here in England.

How and where oppressions by Governors, &c., of plantations abroad tried.

12 & 13 WILLIAM III. A. D. 1700 & 1701.

CHAPTER II.

Rot. Parl. 12 & 13 Gul. III. p. 1. n. 2.

An Act for the further Limitation of the Crown and better securing the Rights and Liberties of the Subject.

Recital of Stat. 1 W. & M. Sess. 2. c. 2. § 2.

WHEREAS in the first year of the reign of your Majesty and of our late most gracious sovereign lady Queen Mary (of blessed memory) an Act of Parliament was made intituled (An Act for declaring the rights and liberties of the subject and for setling the succession of the crown) wherein it was (amongst other things) enacted established and declared that the crown and regall government of the kingdoms of England France and Ireland and the dominions thereunto belonging should be and continue to your Majestie and the said late Queen during the joynt lives of your Majesty and the said Queen and to the survivor and that after the decease of your Majesty and of the said Queen the said crown and regall government should be and remain to the heirs of the body of the said late Queen and for default of such issue to her royall Highness the Princess Ann of Denmark and the heirs of her body and for default of such issue to the heirs of the body of your Majesty And it was thereby further enacted that all and every person and persons that then were or afterwards should be reconciled to or shall hold communion with the see or church of Rome or should professe the popish religion or marry a papist should be excluded and are by that Act made for ever [incapable[1]] to inherit possess or enjoy the crown and government of this realm and Ireland and the dominions thereunto belonging or any part of the same or to have use or exercise any regall power authority or jurisdiction within the same and in all and every such case and cases the people of these realms shall be and are thereby absolved of their allegiance and that the said crown and government shall from time to time descend to and be enjoyed by such person or persons being protestants as should have inherited and enjoyed the same in case the said person or persons so reconciled holding communion professing or marrying as aforesaid were naturally dead After the making of which Statute and the settlement therein contained your Majesties good subjects who were restored to the full and free possession and enjoyment of their [religion[2]] rights and liberties by the providence of God giving success to Your Majesties just undertakings and unwearied endeavours for that purpose had no greater temporall felicity to hope or wish for then to see a royall progeny descending from your Majesty to whom (under God) they owe their tranquility and whose ancestors have for many

[1] uncapable *O.*

[2] interlined on the roll.

years been principall assertors of the reformed religion and the liberties of [Europe[1]], and from our said most gracious sovereign lady whose memory will always be precious to the subjects of these realms And it having since pleased Almighty God to take away our said sovereign lady and also the most hopefull Prince William Duke of Gloucester (the only surviving issue of her royall Highness the Princess Ann of Denmark) to the unspeakable grief and sorrow of your Majesty and your said good subjects who under such losses being sensibly put in mind that it standeth wholly in the pleasure of Almighty God to prolong the lives of your Majesty and of her royall Highness and to grant to your Majesty or to her royall Highness such issue as may be inheritable to the crown and regall government aforesaid by the respective limitations in the said recited Act contained doe constantly implore the divine mercy for those blessings And your Majesties said subjects having daily experience of your royall care and concern for the present and future wellfare of these kingdoms and particularly recommending from your throne a further provision to be made for the succession of the crown in the protestant line for the happiness of the nation and the security of our religion and it being absolutely necessary for the safety peace and quiet of this [realm[2]] to obviate all doubts and contentions in the same by reason of any pretended titles to the [crown[3]] and to maintain a certainty in the succession thereof to which your subjects may safely have recourse for their protection in case the limitations in the said recited [Act[4]] should determine Therefore for a further provision of the succession of the crown in the protestant line we your Majesties most dutifull and loyall subjects the lords spirituall and temporall and commons in this present Parliament assembled do beseech your Majesty that it may be enacted and declared and be it enacted and declared by the King's most excellent Majesty by and with the advice and consent of the lords spirituall and temporall and comōns in this present Parliament assembled and by the authority of the same that the most excellent Princess Sophia Electress and Dutchess dowager of Hannover daughter of the most excellent Princess Elizabeth late Queen of Bohemia daughter of our late sovereign lord King James the First of happy memory be and is hereby declared to be the next in succession in the protestant line to the imperiall crown and dignity of the [said[5]] realms of England France and Ireland with the dominions and territories thereunto belonging after his Majesty and the Princess Ann of Denmark and in default of issue of the said Princess Ann and of his Majesty respectively and that from and after the deceases of his said Majesty our now sovereign lord and of her royall Highness

and that the late Queen & Duke of Gloucester are dead;

and that his Majesty had recommended from the throne a further provision for the succession of the crown in the protestant line.

The Princess Sophia, Electress and Dutchess dowager of Hanover, daughter of the late Queen of Bohemia, daughter of King James the First, to inherit after the King and the Princess

1, 2, 3, 4, 5 interlined on the roll.

Anne, in default of issue of the said Princess and his Majesty, respectively; and the heirs of her body, being protestants.

the Princess Ann of Denmark and for default of issue of the said Princess Ann and of his Majesty respectively the crown and regall government of the said kingdoms of England France and Ireland and of the dominions thereunto belonging with the royall state and dignity of the said realms and all honours stiles titles regalities prerogatives powers jurisdictions and authorities to the same belonging and appertaining shall be remain and continue to the said most excellent Princess Sophia and the heirs of her body being protestants And thereunto the said lords spirituall and temporall and commons shall and will in the name of all the people of this realm most humbly and faithfully submitt themselves their heirs and posterities and do faithfully promise that after the deceases of his Majesty and her royall Highness and the failure of the heirs of their respective bodies to stand to maintain and defend the said Princess Sophia and the heirs of her body being [protestants[1]] according to the limitation and succession of the crown in this Act specified and contained to the utmost of their powers with their lives and estates against all persons whatsoever that shall attempt any thing to the contrary.

II. The persons inheritable by this Act, holding communion with the church of Rome, incapacitated as by the former Act;

to take the oath at their coronation, according to Stat. 1 W. & M. c. 6.

PROVIDED always and it is hereby enacted that all and every person and persons who shall or may take or inherit the said crown by vertue of the limitation of this present Act and is are or shall be reconciled to or shall hold communion with the see or church of Rome or shall profess the popish religion or shall marry a papist shall be subject to such incapacities as in such case or cases are by the said recited Act provided enacted and established And that every King and Queen of this realm who shall come to and succeed in the imperiall crown of this kingdom by vertue of this Act shall have the coronation oath administered to him her or them at their respective coronations according to the Act of Parliament made in the first year of the reign of his Majesty and the said late Queen Mary intituled An Act for establishing the coronation oath and shall make subscribe and repeat the declaration in the Act first above recited mentioned or referred to in the manner and form thereby prescribed.

III. Further provisions for securing the religion, laws and liberties of these realms

AND whereas it is requisite and necessary that some further provision be made for securing our religion laws and liberties from and after the death of his Majesty and the Princess Ann of Denmark and in default of issue of the body of the said Princess and of his Majesty respectively Be it enacted by the King's most excellent Majesty by and with the advice and consent of the lords spirituall and temporall and commons in Parliament assembled and by the authority of the same

[1] interlined on the roll.

That whosoever shall hereafter come to the possession of this crown shall joyn in communion with the Church of England as by law established

That in case the crown and imperiall dignity of this realm shall hereafter come to any person not being a native of this kingdom of England this nation be not obliged to ingage in any warr for the defence of any dominions or territories which do not belong to the crown of England without the consent of Parliament.

That no person who shall hereafter come to the possession of this crown shall go out of the dominions of England Scotland or Ireland without consent of Parliament. [Rep., 1 Geo. 1. Stat. 2. c. 51.]

That from and after the time that the further limitation by this Act shall take effect all matters and things relating to the well governing of this kingdom which are properly cognizable in the privy councill by the laws and customs of this realme shall be transacted there and all resolutions taken thereupon shall be signed by such of the privy councill as shall advise and consent to the same. [Rep., 4 & 5 Anne, c. 20. s. 27.]

That after the said limitation shall take effect as aforesaid no person born out of the kingdoms of England Scotland or Ireland or the dominions thereunto belonging (although he be naturalized or made a denizen (except such as [are[1]] born of English parents) shall be capable to be of the privy councill or a member of either House of Parliament or to enjoy any office or place of trust either civill or military or to have any grant of lands tenements or hereditaments from the Crown to himself or to any other or others in trust for him. [[2]]

That no person who has an office or place of profit under the King or

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[1] interlined on the roll.

[[2] Rep., 7 & 8 Vict., c. 66, as to such parts as are inconsistent with the provisions of that Act. The provisions of that Act with which this clause is inconsistent are as follows:—

Sect. 3.—And be it enacted, that every person now born or hereafter to be born, out of Her Majesty's dominions, of a mother being a natural-born subject of the United Kingdom, shall be capable of taking to him, his heirs, executors, or administrators, any estate, real or personal, by devise or purchase or inheritance of succession.

Sect. 5.—And be it enacted, that every alien now residing in or who shall hereafter come to reside in any part of the United Kingdom, and being the subject of a friendly State, may by grant, lease, demise, assignment, bequest, representation, or otherwise, take and hold any lands, houses, or other tenements for the purpose of residence or of occupation by him or her or his or her servants, or for the purpose of any business, trade, or manufacture, for any term of years not exceeding twenty-one years, as fully and effectually to all intents and purposes, and with the same rights, remedies, exemptions, and privileges, except the right to vote at elections for members of Parliament, as if he were a natural-born subject of the United Kingdom.

Sect. 6.—And be it enacted, that upon obtaining the certificate and taking the oath hereinafter prescribed, every alien now residing in or who shall hereafter come to reside in any part of Great Britain or Ireland with intent to settle therein, shall enjoy all the rights and capacities which a natural-born subject of the United Kingdom can enjoy or transmit, except that such alien shall not be capable of becoming of Her Majesty's Privy Council, nor a member of either House of Parliament, nor of enjoying such other rights and capacities, if any, as shall be specially excepted in and by the certificate to be granted in manner hereinafter mentioned.

receives a pention from the Crown shall be capable of serving as a member of the House of Commons [Rep. 4 & 5 Anne, c. 20. s. 28].

That after the said limitation shall take effect as aforesaid judges commissions be made quam diu se bene gesserint and their salaries ascertained and established but upon the address of both Houses of Parliament it may be lawfull to remove them.

That no pardon under the great seal of England be pleadable to an impeachment by the commons in Parliament.

IV. The laws and statutes of the realm confirmed.

AND whereas the laws of England are the birthright of the people thereof and all the Kings and Queens who shall ascend the throne of this realm ought to administer the government of the same according to the said laws and all their officers and ministers ought to serve them respectively according to the same The said lords spirituall and temporall and commons do therefore further humbly pray that all the laws and statutes of this realm for securing the established religion and the rights and liberties of the people thereof and all other laws and statutes of the same now in force may be ratified and confirmed And the same are by his Majesty by and with the advice and consent of the said lords spirituall and temporall and commons and by authority of the same ratified and confirmed accordingly.

I ANNE. A. D. 1702.

CHAPTER II.

Rot Parl. 1 Ann p 2, n. 2.

An Act for explaining a Clause in an Act made at the Parliament begun and holden at Westminster the Two and twentieth of November in the Seventh Year of the Reign of our Sovereign Lord King William the Third intituled An Act for the better Security of His Majesties Royal Person and Government.

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IV. The like enactment as to writs and proceedings in time to come.

AND be it further enacted that no writ plea or process or any other proceeding upon any indictment or information for any offence or misdemeanor or any writ process or proceeding for any debt or account that shall be due or to be made to her Majesty her heirs or successors for or concering any lands tenements or other revenue that shall belong to her or them that shall be depending at the time of her Majesties demise (whom God long preserve) or of any of her heirs or successors shall be discontinued or put without day by reason of her or any of

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Sect. 16.—And be it enacted, that any woman married or who shall be married to a natural-born subject or person naturalized shall be deemed and taken to be herself naturalized and have all the rights and privileges of a natural-born subject.

7 & 8 Vict., cap. 66, is repealed by 33 Vict., cap. 14, by s. 7 of which Act the above clause is virtually repealed as to all persons obtaining a certificate of naturalization.]

their deaths or demises but shall continue and remain in full force and virtue to be proceeded upon notwithstanding any such death or demise.

V. No commission of association or writ herein mentioned determined by demise of the crown.

[1] And be it further enacted by the authority aforesaid ..... Nor hereafter by the demise of her present Majesty or any King or Queen of this realm shall any commission of assize oyer and terminer general gaol delivery or of association writ of admittance writ of si non omnes writ of assistance or commission of the peace be determined but every such commission and writ shall be and continue in full force and vertue for the space of six months next ensuing notwithstanding any such demise unless superseded and determined by her Majesty her heirs or successors and also no original writ writ of nisi prius commission process or proceedings whatsoever in or issuing out of any court of equity nor any process or proceeding upon any office or inquisition nor any writ of certiorari or habeas corpus in any matter or cause either criminal or civil nor any writ of attachment or processe for contempt nor any commission of delegacy or review for any matters ecclesiastical testamentary or maritime or any process thereupon shall be determined abated or discontinued by the demise of her Majesty or any King or Queen of this realm but every such writ commission process and proceeding shall remain in full force and vertue to be proceeded upon as if her Majesty or such other King or Queen had lived notwithstanding any such death or demise.

The like enactment as to original and other writs and proceedings herein mentioned.

VI. This Act... extended to Ireland, &c.

And be it further enacted that all and singular the provisions matters clauses and things whatsoever contained in this Act ..... shall extend and be construed to extend to the kingdom of Ireland to the islands of Jersey and Guernsey and to all her Majesties dominions in America and elsewhere.

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3 & 4 ANNE. A. D. 1704.

Chapter VIII.[2]

An Act for giving like Remedy upon Promissory Notes as is now used upon Bills of Exchange and for the better Payment of Inland Bills of Exchange.[3]

Rot. Parl. 3 & 4 Anne, p. 3, n. 3.

Reasons for passing this Act.

Whereas it hath been held that notes in writing signed by the party who makes the same whereby such party promises to pay unto any other person or his order any sum of money therein mentioned are not assignable or indorsible

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[1] The following clauses are annexed to the original Act in separate schedules.

[2] This is chapter IX in the common printed editions.

[3] As promissory notes are not within the custom of merchants, they are not transferable at common-law. Their transferability in India seems to depend on this statute, which is not expressly confined to England.

over within the custom of merchants to any other person and that such person to whom the sum of money mentioned in such note is payable cannot maintain an action by the custom of merchants against the person who first made and signed the same and that any person to whom such note should be assigned indorsed or made payable could not within the said custom of merchants maintain any action upon such note against the person who first drew [and signed[1]] the same. Therefore to the intent to encourage trade and commerce which will be much advanced if such notes shall have the same effect as inland bills of exchange and shall be negotiated in like manner be it enacted by the Queens most excellent Majesty by and with the advice and consent of the lords spiritual and temporal and commons in this present Parliament assembled and by the authority of the same that all notes in writing that after the first day of May in the year of our Lord one thousand seven hundred and five shall be made and signed by any person or persons body politick or corporate or by the servant or agent of any corporation banker goldsmith merchant or trader who is usually intrusted by him her or them to sign such promissory notes for him her or them whereby such person or persons body politick or corporate his her or their servant or agent as aforesaid doth or shall promise to pay to any other person or persons body politick and corporate his her or their order or unto bearer any sum of money mentioned in such note shall be taken and construed to be by vertue thereof due and payable to any such person or persons body politick and corporate to whom the same is made payable and also every such note payable to any person or persons body politick and corporate his her or their order shall be assignable or indorsible over in the same manner as inland bills of exchange are or may be according to the custom of merchants.

Promissory notes to be signed,

and indorsible.

II. Payee may maintain action.

And that the person or persons body politick and corporate to whom such sum of money is or shall be by such note made payable shall and may maintain an action for the same in such manner as he she or they might do upon any inland bill of exchange made or drawn according to the custom of merchants against the person or persons body politick and corporate who or whose servant or agent as aforesaid signed the same.

III. The like provision as to Indorsee.

And that any person or persons body politick and corporate to whom such note that is payable to any person or persons body politick and corporate his her or their order is indorsed or assigned or the money therein mentioned ordered to be paid by indorsement thereon shall and may maintain his her or their action for such sum of money either against the person or persons body politick and corporate who or whose servant or agent as aforesaid signed such note or against any of the persons that indorsed the same in

[1] interlined on the roll.

like manner as in cases of inland bills of exchange and in every such action the plaintiff or plaintiffs shall recover his her or their damages and costs of suit. And if such plaintiff or plaintiffs shall be nonsuited or a verdict be given against him her or them the defendant or defendants shall recover his her or their costs against the plaintiff or plaintiffs and every such plaintiff or plaintiffs defendant or defendants respectively recovering may sue out execution for such damages and costs by capias fieri facias or elegit.

Damages and costs in such actions.

[*Sec. IV—as to limitation of actions—is omitted as inapplicable to India.*]

V. Notes not to be issued otherwise than as heretofore.

PROVIDED that no body politick or corporate shall have power by vertue of this Act to issue or give out any notes by themselves or their servants other than such as they might have issued if this Act had never been made.

VI. Recital of Stat. 9 W. III. c. 17, § 1.

AND whereas by an Act of Parliament made in the ninth year of the reign of his late Majesty King William the Third intituled An Act for the better payment of inland bills of exchange it is among other things enacted that from and after presentation and acceptance of the said bill or bills of exchange (which acceptance shall be by the underwriting the same under the parties hand so accepting) and after the expiration of three days after the said bill or bills shall become due the party to whom the said bill or bills are made payable his servant agent or assigns may and shall cause the same bill or bills to be protested in manner as in the said Act is enacted. And whereas by there being no provision made therein for protesting such bill or bills in case the party on whom the same are or shall be drawn refuse to accept the same by underwriting the same under his hand all merchants and others do refuse to underwrite such bill or bills or make any other than a promissory acceptance by which means the effect and good intent of the said Act in that behalf is wholly evaded and no bill or bills can be protested before or for want of such acceptance by underwriting the same as aforesaid. For remedy whereof be it enacted by the authority aforesaid that from and after the first day of May which shall be in the year of our Lord one thousand seven hundred and five in case upon presenting of any such bill or bills of exchange the party or parties on whom the same shall be drawn shall refuse to accept the same by underwriting the same as aforesaid the party to whom the said bill or bills are made payable his servant agent or assigns may and shall cause the said bill or bills to be protested for non-acceptance as in case of foreign bills of exchange any thing in the said Act or any other law to the contrary notwithstanding for which protest there shall be paid two shillings and no more.

Reasons for passing this enactment.

Protest of bills, &c., for non-acceptance may be made as in case of foreign bills of exchange.

VII. No acceptance to charge except in writing; nor drawer liable to costs, &c, unless protest made and notice given.

[1] PROVIDED always that from and after the said first day of May no acceptance of any such inland bill of exchange shall be sufficient to charge any person whatsoever unless the same be underwritten or indorsed in writing thereupon and if such bill be not accepted by such underwriting or indorsment in writing no drawer of any such inland bill shall be liable to pay any costs damages or interest thereupon unless such protest be made for non-acceptance thereof and within fourteen days after such protest the same be sent or otherwise notice thereof be given to the party from whom such bill was received or left in writing at the place of his or her usual abode.

VIII. But drawer liable if one protest made and notice given thereof.

AND if such bill be accepted and not paid before the expiration of three days after the said [bill[2]] shall become due and payable then no drawer of such bill shall be compellable to pay any costs damages or interest thereupon unless a protest be made and sent or notice thereof be given in manner and form abovementioned. Nevertheless every drawer of such bill shall be liable to make payment of costs damages and interest upon such inland bill if any one protest be made for non-acceptance or non-payment thereof and notice thereof be sent given or left as aforesaid.

IX. In what cases protest not necessary.

By whom protests to be made.

PROVIDED that no such protest shall be necessary either for non-acceptance or non-payment of any inland bill of exchange unless the value be acknowledged and expressed in such bill to be received and unless such bill be drawn for the payment of twenty pounds sterling or upwards and that the protest hereby required for non-acceptance shall be made by such persons as are appointed by the said recited Act to protest inland bills of exchange for non-payment thereof.

X. Bill of exchange received for a debt, accounted good payment though not paid, if not proceeded upon.

AND be it further enacted that from and after the said first day of May if any person doth accept any such bill of exchange for and in satisfaction of any former debt or sum of money formerly due unto him the same shall be accounted and esteemed a full and complete payment of such debt if such person accepting of any such bill for his debt doth not take his due course to obtain payment thereof by endeavouring to get the same accepted and paid and make his protest as aforesaid either for non-acceptance or non-payment thereof.

XI. Proviso for remedy against drawer, &c.

PROVIDED that nothing herein contained shall extend to discharge any remedy that any person may have against the drawer accepter or indorser of such bill.

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[1] The following clauses are annexed to the original Act in four separate schedules.
[2] interlined on the roll.

4 & 5 ANNE. A. D. 1705.

CHAPTER III.[1]

An Act for the Amendment of the Law and the better Advancement of Justice.

Rot. Parl., p. 2, n. 2.

IX. Attornment of tenant in what cases not necessary.

AND be it further enacted by the authority aforesaid that from and after the said first day of Trinity term all grants or conveyances thereafter to be made by fine or otherwise of any manors or rents or of the reversion or remainder of any messuages or lands shall be good and effectual to all intents and purposes without any attornment of the tenants of any such manors or of the land out of which such rent shall be issueing or of the particular tenants upon whose particular estates any such reversions or remainders shall and may be expectant or depending as if their attornment had been had and made.

X. Proviso for payment of rent.

PROVIDED nevertheless that no such tenant shall be prejudiced or damaged by payment of any rent to any such grantor or conusor or by breach of any condition for non-payment of rent before notice shall be given to him of such grant by the conusee or grantee.

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XXI. Warranties by tenant for life and collateral warranties by ancestor having no estate in possession, void as against reversioner and heir.

AND be it further enacted by the authority aforesaid that all warranties which shall be made after the said first day of Trinity term by any tenant for life of any lands tenements or hereditaments the same descending or coming to any person in reversion or remainder shall be void and of none effect and likewise all collateral warranties which shall be made after the said first day of Trinity term of any lands tenements or hereditaments by any ancestor who has no estate of inheritance in possession in the same shall be void against his heir.

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XXVII. Proviso for actions of account by and between joint tenants as bailiffs, &c.

[[2] AND be it enacted by the authority aforesaid that from and after the said first day of Trinity term actions of account shall and may be brought and maintained against the executors and administrators of every guardian bailiff and receiver and also by one joynt tenant and tenant in common his executors and administrators against the other as bailiff for receiving more than comes to his just share or proportion and against the executor and administrator of such joynt tenant or tenant in common and the auditors appointed by the court where such action shall be depending shall be and are hereby impowered to administer an oath and examine the parties touching the matters in question and for their pains and trouble in auditing and taking such account have such allowance as the court shall adjudge to be reasonable to be paid by the party on whose side the balance of the account shall appear to be.]

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[1] This is chapter XVI in the common printed editions.

[2] annexed to the original Act in a separate schedule.

4 & 5 ANNE. A. D. 1705.

CHAPTER XVI.[1]

4 & 5 Ann. p. 3. n. 3.

An Act for the Naturalization of the most Excellent Princess Sophia Electress and Dutchess Dowager of Hanover and the Issue of her Body.

Reasons for passing this Act.

WHEREAS the imperial crown and dignity of the realms of England France and Ireland and the dominions thereto belonging after the demise and death of your Majesty our most gracious Soveraign without issue of your body is limited by Act of Parliament to the most excellent Princess Sophia Electress and Dutchess dowager of Hanover grandaughter of the late King James the First and the heirs of her body being protestants And whereas your Majesty by your royal care and concern for the happiness of these kingdoms reigns in the hearts and affections of all your people to their great comfort and satisfaction and will be a glorious example to your royal successors in future ages And to the end the said Princesse Sophia Electress and Dutchess dowager of Hanover and the issue of her body and all persons lineally descending from her may be encouraged to become acquainted with the laws and constitutions of this realm it is just and [highly[2]] reasonable that they in your Majesties lifetime (whom God long preserve) should be naturalized and be deemed taken and esteemed natural-born subjects of England We your Majesties most dutiful and loyal subjects the lords spiritual[3] and commons in Parliament assembled do most humbly beseech your Majesty that it may be enacted and therefore be it enacted by the Queen's most excellent Majesty by and with the advice and consent of the lords spiritual and temporal and the commons in this present Parliament assembled and by the authority of the same that the said Princess Sophia Electress and Dutchess dowager of Hanover and the issue of her body and all persons lineally descending from her born or hereafter to be born be and shall be to all intents and purposes whatsoever deemed taken and esteemed natural-born subjects of this kingdom as if the said princess and the issue of her body and all persons lineally descending from her born or hereafter to be born had been born within this realm of England any law statute matter or thing whatsoever to the contrary notwithstanding

The Electress of Hanover and her lineal descendants naturalized.

II. Proviso respecting

PROVIDED always and be it further enacted [and declared[4]] by the authority aforesaid that every person and persons who shall be naturalized by virtue of

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[1] This is chapter IV in the common printed editions. The original Act is not amongst the Acts of this year at the Parliament office.

[2], [4] interlined on the roll.

[3] and temporal, King's printer's copy.

this Act of Parliament and shall become a papist or profess the popish religion shall not enjoy any benefit or advantage of a natural-born subject of England but every such person shall be adjudged and taken as an alien born out of the allegiance of the Queen of England to all intents and purposes whatsoever any thing herein contained to the contrary notwithstanding.

persons naturalized by this Act turning papists.

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6 ANNE. A. D. 1707.

Chapter XLI.[1]

An Act for the Security of Her Majesties Person and Government and of the Succession to the Crown of Great Britain in the Protestant Line.

Rot. Parl. 6, Ann. p. 5, n. 6.

Whereas by the happy union of England and Scotland it is become necessary to make divers alterations in relation to an Act passed in the Parliament of England in the fourth year of the reign of her present Majesty whom God long preserve intituled An Act for the better security of her Majesties person and government and of the succession to the crown of England in the protestant line and to extend the provisions of the said Act throughout the whole United Kingdom for the better security of our most gracious Sovereigns person and government and of the succession to the crown of Great Britain in the protestant line as it is now by the laws and statutes of this realm [settled[2]] limited and appointed. Be it therefore enacted by the Queens most excellent Majesty by and with the advice and consent of the lords spiritual and temporal and the commons in this present Parliament assembled and by the authority of the same that if any person or persons shall maliciously advisedly and directly by writing or printing maintain and affirm that our sovereign lady the Queen that now is is not the lawful and rightful Queen of these realms or that the pretended Prince of Wales who now stiles himself King of Great Britain or King of England by the name of James the Third or King of Scotland by the name of James the Eighth hath any right or title to the crown of these realms or [that[3]] any other person or persons hath or have any right or title to the same otherwise than according to an Act of Parliament made in England in the first year of the reign

Stat. 4 & 5 Ann. c. 20.

Maintaining that the Queen is not rightful Queen, &c.

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[1] This is chapter VII, 6 Ann, in the common printed editions.
[2], [3] interlined on the roll.

of their late Majesties King William and Queen Mary of ever blessed and glorious memory intituled An Act declaring the rights and liberties of the subject and settling the succession of the crown and one other Act made in England in the twelfth year of the reign of his said late Majesty King William the Third intituled An Act for the further limitation of the crown and better securing the rights and liberties of the subject And the Acts lately made in England and Scotland mutually for the union of the two kingdoms or that the Kings or Queens of this realm with and by the authority of Parliament are not able to make laws and statutes of sufficient force and validity to limit and bind the crown and the descent limitation inheritance and government thereof every such person or persons shall be guilty of high treason and being thereof lawfully convicted shall be adjudged traytors and shall suffer pains of death and all losses and forfeitures as in cases of high treason.

Stat. 1 W. & M. sess. 2. c. 2.

12 & 13 W. III c 2.

6 Ann. c. 11.

high treason.

VIII. Privy council not determined by death of Sovereign, nor the offices herein mentioned.

And be it further enacted by the authority aforesaid that the privy council of her Majesty her heirs or successors for the kingdom of Great Britain shall not be determined or dissolved by the death or demise of her Majesty her heirs or successors but such privy council shall continue and act as such by the space of six months next after such demise unless sooner determined by the next successor to whom the imperial crown of this realm is limited and appointed to go remain and descend nor shall the office or place of lord chancellor or lord keeper of the great seal of Great Britain or of lord high treasurer of Great Britain lord president of the council for Great Britain lord privy seal of Great Britain lord high admiral of Great Britain or of any of the great officers of the Queen or King's houshold for the time being nor shall any office place or imployment civil or military within the kingdoms of Great Britain or Ireland dominion of Wales town of Berwick upon Tweed isles of Jersey Guernsey Alderney and Sarke or any of her Majesties plantations become void by reason of the demise or death of her present Majesty her heirs or successors Queens or Kings of this realm but the said lord chancellor or lord keeper of the great seal of Great Britain the lord high treasurer of Great Britain the lord president of the council the lord privy seal the lord high admiral of Great Britain the great officers of the houshold and every other person and persons in any of the offices places and imployments aforesaid shall continue in their respective offices places and imployments for the space of six months next after such death or demise unless sooner removed and discharged by the next in succession as aforesaid.

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6 ANNE. A. D. 1707.

CHAPTER LXXII.[1]

An Act for the more effectual Discovery of the Death of Persons pretended to be alive to the Prejudice of those who claim Estates after their Deaths.

Rot. Parl. 6 Ann. p. 7, n. 8.

Reasons for passing this Act.

WHEREAS divers persons as guardians and trustees for infants and husbands in right of their wives and other persons having estates or interests determinable upon a life or lives have continued to receive the rents and profits of such lands after the determination of their said particular estates or interests. And whereas the proof of the death of the persons on whose lives such particular estates or interests depended is very difficult and several persons have been and may be thereby defrauded For remedy whereof and for preventing such fraudulent practices be it enacted by the Queens most excellent Majesty by and with the advice and consent of the lords spiritual and temporal and commons in this present Parliament assembled and by the authority of the same that any person or persons who hath or shall have any claim or demand in or to any remainder reversion or expectancy in or to any estate after the death of any person within age married woman or any other person whatsoever upon affidavit made in the High Court of Chancery by the persons so claiming such estate of his or her title and that he or she hath cause to believe that such minor married woman or other person is dead and that his or her death is concealed by such guardian trustee husband or any other person shall and may once a year if the person aggrieved shall think fit move the lord chancellor keeper or commissioners for the custody of the great seal of Great Britain for the time being to order [and they are hereby authorized and required to order[2]] such guardian trustee husband or other person concealing or suspected to conceal such person at such time and place as the said court shall direct on personal or other due service of such order to produce and shew to such person and persons (not exceeding two) as shall in such order be named by the party or parties prosecuting such order such minor married women or other persons aforesaid And if such guardian trustee husband or such other person as aforesaid shall refuse or neglect to produce or shew such infant married woman or such other person on whose life any such estate doth depend according to the directions of the said order that then the Court of Chancery is hereby authorized and required to order such guardian trustee husband or other person to produce such minor married woman or other person concealed in the said Court of Chancery or otherwise before commissioners to be appointed by the said court at such time and place as the court shall direct two of which commissioners

Reversioners, &c., expectant upon determination of life estate, upon affidavit of belief of death of infant or other tenant for life as hereinmentioned, and that such death is concealed by guardian, &c., may yearly move for and obtain an order in Chancery for the production of such tenant for life;

[1] This is chapter XVIII, 6 Ann, in the common printed editions.
[2] interlined on the roll.

and upon refusal, &c., to produce such tenant for life, taken to be dead.

shall be nominated by the party or parties prosecuting such order at his her or their costs and charges [And in case such guardian trustee husband or other person[1]] shall refuse or neglect to produce such infant married woman or other person so concealed in the Court of Chancery or before such commissioners whereof return shall be made by such commissioners and that return filed in the petty bag office in either or any of the said cases the said minor married woman or such other person so concealed shall be taken to be dead and it shall be lawful for any person claiming any right title or interest in remainder or reversion or otherwise after the death of such infant married woman or such other persons so concealed as aforesaid to enter upon such lands tenements and hereditaments as if such infant married woman or other person so concealed were actually dead.

II. If such infant, &c., tenant for life, appear to be in some place beyond sea, party prosecuting such order may send over to view such infant, and if guardian, &c., will not produce such tenant for life, then he or she to be taken as dead.

And be it further enacted by the authority aforesaid that if it shall appear to the said court by affidavit that such minor married woman or other person for such [2] life such estate is holden is or lately was at some certain place beyond the seas in the said affidavit to be mentioned it shall and may be lawful for the party or parties prosecuting such order as aforesaid at his her or their costs and charges to send over one or both the said persons appointed by the said order to view such minor married woman or other person for whose life any such estate is holden and in case such guardian trustee husband or other person concealing or suspected. to conceal such persons as aforesaid shall refuse or neglect to produce or procure to be produced to such person or persons a personal view of such infant married woman or other person for whose life any such estate is holden that then and in such case such person or persons are hereby required to make a true return of such refusal or neglect to the Court of Chancery which return shall be filed in the petty bag office and thereupon such minor married woman or other person for whose life any such estate is holden shall be taken to be dead and it shall be lawful for any person claiming any right title or interest in remainder reversion or otherwise after the death of such infant married woman or other person for whose life any such estate is holden to enter upon such lands tenements and hereditaments as if such infant married woman or other person for whose life any such estate is holden were actually dead.

III. If it appear afterwards in any action to be brought that such tenant for life was alive at

Provided always that if it shall afterwards appear upon proof in any action to be brought that such infant married woman or other person for whose life any such estate is holden were alive at the time of such order made that then it shall be lawful for such infant married woman guardian or trustee or other person having any estate or interest determinable upon such life to re-

[1] interlined on the roll.

[2] leg. 'whose'

enter upon the said lands tenements or hereditaments and for such infant married woman or other person having any estate or interest determinable upon such life their executors administrators or assigns to maintain an action against those who since the said order received the profits of such lands tenements or hereditaments or their executors or administrators and therein to recover full damages for the profits of the same received from the time that such infant married woman or other person having any estate or interest determinable upon such life were ousted of the possession of such lands tenements or hereditaments.

the time of the order made, then he or she may re-enter, and have action for rent, &c.

IV. Proviso for guardian, &c., who shall make it appear that due endeavour has been used to procure the appearance of such infant and tenant for life.

[1] PROVIDED always that if any such guardian trustee husband or other person or persons holding or having any estate or interest determinable upon the life or lives of any other person or persons shall by affidavit or otherwise to the satisfaction of the said Court of Chancery make appear that he she or they have used his her or their utmost endeavours to procure such infant married woman or other person or persons on whose life or lives such estate or interest doth depend to appear in the said Court of Chancery or elsewhere according to the order of the said court in that behalf made and that he she or they cannot procure or compel such infant married woman or other person or persons so to appear and that such infant married woman or other person or persons on whose life or lives such estate or interest doth depend is are or were living at the time of such return made and filed as aforesaid then it shall be lawful for such person or persons to continue in the possession of such estate and receive the rents and profits thereof for and during the infancy of such infant and the life or lives of such married woman or other person or persons on whose life or lives such estate or interest doth or shall depend as fully as he she or they might have done if this Act had not been made.

V. Guardians, trustees, &c., holding over without consent of remainderman, &c, deemed trespassers.

AND be it further enacted by the authority aforesaid that every person who as guardian or trustee for any infant and every husband seised in right of his wife only and every other person having any estate determinable upon any life or lives who after the determination of such particular estates or interests without the express consent of him her or them who are or shall be next and immediately entitled upon and after the determination of such particular estates or interests shall hold over and continue in possession of any manors messuages lands tenements or hereditaments shall be and are hereby adjudged to be trespassers and that every person and persons his her and their executors and administrators who are or shall be entitled to any such manors messuages lands tenements and hereditaments upon or after the determination of such particular estates or interests shall and may recover in damages against every such person or persons

Damages.

[1] Annexed to the original Act in two separate schedules.

so holding over as aforesaid and against his her or their executors or administrators the full value of the profits received during such wrongful possession as aforesaid.

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7 ANNE. A. D. 1708.

Chapter V.

An Act for naturalizing Foreign Protestants.

Rot. Parl., 7 Ann. p. 2, n. 4.

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III. Children of natural-born subjects, born out of England, deemed natural-born subjects.

And be it further enacted by the authority aforesaid that the children of all natural-born subjects born out of the ligeance of her Majesty her heires and successors shall be deemed adjudged and taken to be natural-born subjects of this kingdom to all intents constructions and purposes whatsoever.

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10 GEORGE III. A. D. 1770.

Chapter XLVII.

An Act for better regulating Persons employed in the Service of the East India Company, and for other Purposes therein mentioned.

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Company's servants in the East Indies guilty of oppression or other crime,

[IV.] And be it further enacted by the authority aforesaid, that if any person or persons whatsoever employed by or in the service of the said united company, in any civil or military station, office, or capacity whatsoever in the East Indies, or deriving or claiming any power, authority, or jurisdiction by or from the said united company, shall, after the passing of this Act, be guilty of oppressing any of his Majesty's subjects beyond the seas within their respective jurisdictions, or in the exercise of any such station, office, employment, power, or authority derived or claimed by, from, or under the said united company, or shall be guilty of any other crime or offence, such oppressions, crimes, and offences shall and may be enquired of, heard, and determined in his Majesty's Court of King's Bench in England; and such punishments shall be inflicted on such offenders as are usually inflicted for offences of the like nature committed in that part of Great Britain called England;

may be tried in the Court of King's Bench, and punished as if offence committed in England.

and that the same and all other offences committed against this Act may be alledged to be committed, and may be laid, enquired of, and tried in the county of Middlesex.

Crime may be alledged to be committed in Middlesex.

[V.] And be it further enacted by the authority aforesaid, that in all actions or suits brought against the said united company, their agents or servants, or any person deriving authority under the said company, for any thing by him or them done in such capacity, from and after the passing of this Act, the defendant or defendants in any such action or suit may plead the general issue, and give the special matter in evidence.

Defendants may plead the general issue.

[VI.] And be it further enacted by the authority aforesaid, that this Act shall be deemed and taken to be a public Act, of which notice shall be judicially taken by all judges, justices, and other persons whatsoever, without specially pleading the same.

Public Act.

[VII.] Provided always, and it is hereby enacted and declared, that the defendant or defendants, or his or their attorney, shall deliver to the plaintiff or plaintiffs in every such action, or his or their attorney, a notice in writing, signed by the defendant or defendants or his or their attorney, of the substance of the defence or defences which he or they intend to rely upon, six days before the trial of such action, in case the same is to be tried in London or Middlesex, and eight days before the trial thereof, in case the same is to be tried in any other county; and the defendant or defendants shall not, by virtue of this Act, be permitted at the trial of any such action, to give evidence of any matters not contained in such notice.

Defendant to deliver to plaintiff a notice of the substance of his defence; and shall not give evidence of any matters not contained therein.

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13 GEO. III. A. D. 1772-73.

Chapter LXIII.

An Act for establishing certain Regulations for the better Management of the Affairs of the East India Company, as well in India as in Europe.

[VII.] And for the better management of the said united company's affairs in India, be it further enacted by the authority aforesaid, that for the government of the presidency of Fort William in Bengal there shall be appointed a governor-general and four counsellors; and that the whole civil and military government of the said presidency, and also the ordering, management, and government of all the territorial acquisitions and revenues in the kingdoms of Bengal, Bahar and Orissa shall, during such time as the territorial acquisitions and revenues shall remain in the possession of the said united company, be and are hereby vested in the said governor-general and council of the said presidency of Fort William in Bengal, in like manner to all intents and purposes

A governor-general and four counsellors to be appointed, in whom the whole civil and military government of Bengal, Bahar, and Orissa shall be vested.

whatsoever as the same now are or at any time heretofore might have been exercised by the president and council or select committee in the said kingdoms.

In case of difference of opinion, the decision of the major part to be conclusive; and if votes equal, the governor or eldest counsellor to have a casting voice.

[VIII.] And be it enacted by the authority aforesaid, that in all cases whatsoever wherein any difference of opinion shall arise upon any question proposed in any consultation, the said governor-general and council shall be bound and concluded by the opinion and decision of the major part of those present: And if it shall happen that, by the death or removal, or by the absence of any of the members of the said council, such governor-general and council shall happen to be equally divided, then and in every such case the said governor-general, or, in his absence, the eldest counsellor present, shall have a casting voice, and his opinion shall be decisive and conclusive.

Power of the governor-general in council in Madras, Bombay, and Bencoolen.

[IX.] And be it further enacted by the authority aforesaid, that the said governor-general and council, or the major part of them, shall have, and they are hereby authorised to have, power of superintending and controuling the government and management of the presidencies of Madras, Bombay and Bencoolen respectively, so far and in so much as that it shall not be lawful for any president and council of Madras, Bombay or Bencoolen for the time being to make any orders for commencing hostilities, or declaring or making war, against any Indian princes or powers, or for negotiating or concluding any treaty of peace, or other treaty, with any such Indian princes or powers, without the consent and approbation of the said governor-general and council first had and obtained, except in such cases of imminent necessity as would render it dangerous to postpone such hostilities or treaties until the orders from the governor-general and council might arrive, and except in such cases where the said presidents and councils respectively shall have received special orders from the said united company; and any president and council of Madras, Bombay or Bencoolen who shall offend in any of the cases aforesaid shall be liable to be suspended from his or their office by the order of the said governor-general and council; and every president and council of Madras, Bombay and Bencoolen for the time being shall and they are hereby respectively directed and required to pay due obedience to such orders as they shall receive touching the premises from the said governor-general and council for the time being, and constantly and diligently to transmit to the said governor-general and council advice and intelligence of all transactions and matters whatsoever that shall come to their knowledge relating to the government revenues or interest of the said united company; and the said governor-general and council for the time being shall and they are hereby directed and required to pay due obedience to all such orders as they shall receive from the court of directors of the said united company, and to correspond from time to

time, and constantly and diligently transmit to the said court an exact particular of all advices or intelligence, and of all transactions and matters whatsoever, that shall come to their knowledge relating to the government, commerce, revenues or interest of the said united company; and the court of directors of the said company, or their successors, shall, and they are hereby directed and required, from time to time, before the expiration of fourteen days after the receiving any such letters or advices, to give in and deliver unto the high treasurer or commissioners of his Majesty's Treasury for the time being a true and exact copy of such parts of the said letters or advices as shall any way relate to the management of the revenues of the said company; . . . . . [1] all which copies shall be fairly written, and shall be signed by two or more of the directors of the said company.

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[XIII.] And whereas his late Majesty King George the Second did, by his letters patent, bearing date at Westminster the eighth day of January, in the twenty-sixth year of his reign, grant unto the said United Company of Merchants of England trading to the East Indies his royal charter, thereby, amongst other things, constituting and establishing courts of civil, criminal and ecclesiastical jurisdiction at the said united company's respective settlements at Madras-patnam, Bombay on the Island of Bombay, and Fort William in Bengal, which said charter does not sufficiently provide for the due administration of justice in such manner as the state and condition of the company's presidency of Fort William in Bengal, so long as the said company shall continue in the possession of the territorial acquisitions before mentioned, do and must require: Be it therefore enacted by the authority aforesaid, that it shall and may be lawful for his Majesty, by charter or letters patent under the great seal of Great Britain, to erect and establish a Supreme Court of Judicature at Fort William aforesaid, to consist of a chief justice and three other judges, being barristers in England or Ireland, of not less than five years standing, to be named from time to time by his Majesty, his heirs and successors; which said Supreme Court of Judicature shall have, and the same court is hereby declared to have, full power and authority to exercise and perform all civil, criminal, admiralty and ecclesiastical jurisdiction, and to appoint such clerks and other ministerial officers of the said court, with such reasonable salaries, as shall be approved of by the said governor-general and council; and to form and establish such rules of practice, and such rules for the process of the said court, and to do all such other things as shall be found necessary for the administration of justice and the due execution of all or

His Majesty may, by charter or letters patent, establish a Supreme Court of Judicature at Fort William, to consist of a chief justice and three other judges.

[1 A provision as to giving to a Secretary a copy of other parts is here omitted as repealed by 33 Geo. III, c. 52, s. 146.]

any of the powers which, by the said charter, shall or may be granted and committed to the said court; and also shall be at all times a court of record, and shall be a court of oyer and terminer and gaol delivery, in and for the said town of Calcutta and factory of Fort William in Bengal aforesaid, and the limits thereof, and the factories subordinate thereto.

Extent of the jurisdiction and powers of his Majesty's charter;

[XIV.] PROVIDED nevertheless, and be it further enacted by the authority aforesaid, that the said new charter which his Majesty is herein-before impowered to grant, and the jurisdiction, powers, and authorities to be thereby established, shall and may extend to all British subjects who shall reside in the kingdoms or provinces of Bengal, Bahar and Orissa, or any of them, under the protection of the said united company, and the same charter shall be competent and effectual; and the Supreme Court of Judicature therein and thereby to be established shall have full power and authority to hear and determine all complaints against any of his Majesty's subjects for any crimes, misdemeanours or oppressions, committed or to be committed; and also to entertain, hear and determine any suits or actions whatsoever against any of his Majesty's subjects in Bengal, Bahar and Orissa, and any suit, action or complaint against any person who shall, at the time when such debt or cause of action or complaint shall have arisen, have been employed by, or shall then have been, directly or indirectly, in the service of the said united company, or of any of his Majesty's subjects.

and of the Supreme Court of Judicature

Indictments and informations against governor-general, &c.

[XV.] PROVIDED also, that the said court shall not be competent to hear, try or determine any indictment or information against the said governor-general, or any of the said council for the time being, for any offence (not being treason or felony) which such governor-general or any of the said council shall or may be charged with having committed in Bengal, Bahar and Orissa.

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The governor-general, council, &c., not subject to be arrested or imprisoned.

[XVII.] AND it is hereby further enacted and provided, that nothing in this Act shall extend to subject the person of the governor-general or of any of the said council or chief justice and judges respectively for the time being to be arrested or imprisoned upon any action, suit or proceeding in the said court.

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Salaries established to the governor-general, council, chief justice, and judges.

[XXI.] AND be it further enacted by the authority aforesaid, that during such time as the territorial acquisitions shall remain in the possession of the said company, the court of directors of the said united company shall and they are hereby required to direct and cause to be paid certain and established salaries to the governor-general, and to each of the council of the said united company's presidency of Fort William in Bengal, and to the chief justice and each of the judges of such Supreme Court of Judicature at Fort William, as shall be by the said new charter established; (that is to say,) to the governor-

general twenty-five thousand pounds by the year, and to each of the council of the said united company's presidency of Fort William in Bengal ten thousand pounds by the year, and to the chief justice eight thousand pounds by the year, and to each of the judges of the said Supreme Court of Judicature at Fort William six thousand pounds by the year; and that such salaries shall be paid and payable to each and every of them respectively for the time being out of the said territorial acquisitions in the kingdoms of Bengal, Bahar and Orissa.

Such salaries to be in lieu of fees of office, &c.

[XXII.] And be it further enacted by the authority aforesaid, that . . . . . all such salaries to such governor-general and council, and of such chief justice and judges, shall be in lieu of all fees of office, perquisites, emoluments and advantages whatsoever; and that no fees of office, perquisites, emoluments or advantages whatsoever shall be accepted, received or taken by such governor-general and council, or by such chief justice and judges, as aforesaid, or any of them, in any manner, or on any account or pretence whatsoever, other than such salaries and allowances as are in and by this Act directed to be paid to them respectively.

The governor-general or council, &c. shall not accept of any present.

[XXIII.] And be it further enacted by the authority aforesaid, that no governor-general, or any of the council of the said united company's presidency of Fort William in Bengal, or any chief justice, or any of the judges of the Supreme Court of Judicature at Fort William aforesaid, shall, directly or indirectly, by themselves, or by any other person or persons for his or their use or on his or their behalf, accept, receive or take, of or from any person or persons, in any manner or on any account whatsoever, any present, gift, donation, gratuity or reward, pecuniary or otherwise, or any promise or engagement for any present, gift, donation, gratuity or reward; . . . . . .

No person holding a civil or military office under the crown shall accept any donation or gratuity.

[XXIV.] And be it further enacted by the authority aforesaid, that from and after the first day of August one thousand seven hundred and seventy-four no person holding or exercising any civil or military office under the crown or the said united company in the East Indies, shall accept, receive or take, directly or indirectly, by himself or any other person or persons on his behalf, or for his use or benefit, of and from any of the Indian princes or powers, or their ministers or agents (or any of the natives of Asia) any present, gift, donation, gratuity or reward, pecuniary or otherwise, upon any account or on any pretence whatsoever; or any promise or engagement for any present, gift, donation, gratuity or reward; . . . . . .

Counsellors, physicians, surgeons, and chaplains excepted.

[XXV.] Provided always, and be it further enacted by the authority aforesaid, that nothing herein contained shall extend or be construed to extend to prohibit or prevent any person or persons who shall carry on or exercise the profession of a counsellor at law, a physician or a surgeon, or being a chaplain

from accepting, taking or receiving any fees, gratuities or rewards, in the way of their profession.

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The company may not compound or discharge sentences of the supreme court, &c.

[XXXV.] And be it further enacted by the authority aforesaid, that after any judgement of the said Supreme Court of Judicature, or of any court of judicature at any of the said united company's settlements, against any of the said united company's servants, civil or military, for any debt or penalty due or belonging to the said united company, shall be made known to the court of directors for the time being of the said united company, it shall not be lawful to release or compound such sentence or judgement, or to release, discharge, or put a stop to any prosecution, suit, or action commenced or to be commenced for carrying on any illicit trade or for any debt or penalty due to the said united company, or to restore any servant or servants whatever of the said company who shall have been removed or dismissed from his or their office or employment for or upon account of any misbehaviour, without the consent of three parts in four of the said court of directors, to be taken by ballot, and also the consent of three parts in four in number of the proprietors of the said united company who shall be present and give their votes by ballot, to be taken at a general court to be specially called for that purpose, and of which fourteen days public notice at the least shall be given before the holding the same, and of the particular occasion for which such general court shall be called.

without consent of 3-4ths of directors and proprietors at special court.

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Governor-general and council and judges to act as justices of peace,

[XXXVIII.] And be it further enacted by the authority aforesaid, that the governor-general and council . . . . for the time being of the said united company's settlement at Fort William aforesaid shall and may, and they are hereby respectively declared to be, and to have full power and authority to act as justices of the peace for the said settlement, and for the several settlements and factories subordinate thereto; and to do and transact all matters and things which to the office of a justice or justices of the peace do belong and appertain, ...

If the governor-general, president, &c., commit offences, the same may be tried and determined in the Court of King's Bench.

[XXXIX.] And be it further enacted by the authority aforesaid, that if any governor-general, president, or governor or council of any of the said company's principal or other settlements in India, or the chief justice or any of the judges of the said Supreme Court of Judicature to be by the said new charter established, or of any other court in any of the said united company's settlements, or any other person or persons who now are or heretofore have been employed by or in the service of the said united company in any civil or military station, office or capacity, or who have or claim, or heretofore have had or claimed, any power or authority or jurisdiction by or from the said united company, or any of his Majesty's subjects residing in India, shall commit any offence against this Act, or shall have been or shall be guilty of

any crime, misdemeanour or offence committed against any of his Majesty's subjects, or any of the inhabitants of India, within their respective jurisdictions, all such crimes, offences and misdemeanours may be respectively enquired of, heard, tried and determined in his Majesty's Court of King's Bench, and all such persons so offending, and not having been before tried for the same offence in India, shall, on conviction, in any such case as is not otherwise specially provided for by this Act, be liable to such fine or corporal punishment as the said court shall think fit; and moreover shall be liable, at the discretion of the said court, to be adjudged to be incapable of serving the said united company in any office, civil or military; and all and every such crimes, offences and misdemeanours as aforesaid may be alledged to be committed, and may be laid, enquired of and tried, in the county of Middlesex.

Manner of procedure in cases of indictments and informations laid in the King's Bench.

[XL.] And whereas the provisions made by former laws for the hearing and determining in England offences committed in India have been found ineffectual, by reason of the difficulty of proving in this kingdom matters done there: Be it further enacted by the authority aforesaid, that in all cases of indictments or informations laid or exhibited in the said Court of King's Bench for misdemeanours or offences committed in India, it shall and may be lawful for his Majesty's said court, upon motion to be made on behalf of the prosecutor, or of the defendant or defendants, to award a writ or writs of mandamus, requiring the chief justice and judges of the said Supreme Court of Judicature for the time being, or the judges of the Mayor's Court at Madras, Bombay or Bencoolen, as the case may require, who are hereby respectively authorised and required accordingly, to hold a court with all convenient speed for the examination of witnesses and receiving other proofs concerning the matters charged in such indictments or informations respectively; and in the mean time to cause such publick notice to be given of the holding the said court, and to issue such summons or other process as may be requisite for the attendance of witnesses, and of the agents or counsel of all or any of the parties respectively, and to adjourn from time to time as occasion may require; and such examination as aforesaid shall be then and there openly and publickly taken vivâ voce in the said court, upon the respective oaths of witnesses and the oaths of skilful interpreters, administered according to the forms of their several religions; and shall, by some sworn officer of such court, be reduced into one or more writing or writings on parchment, in case any duplicate or duplicates should be required by or on behalf of any of the parties interested, and shall be sent to his Majesty, in his Court of King's Bench, closed up, and under the seals of two or more of the judges of the said court, and one or more of the said judges

shall deliver the same to the agent or agents of the party or parties requiring the same; which said agent or agents (or, in case of his or their death, the person into whose hands the same shall come,) shall deliver the same to one of the clerks in court of his Majesty's Court of King's Bench, in the publick office, and make oath that he received the same from the hands of one or more of the judges of such court in India (or, if such agent be dead, in what manner the same came into his hands); and that the same has not been opened or altered since he so received it (which said oath such clerk in court is hereby authorised and required to administer): And such depositions, being duly taken and returned according to the true intent and meaning of this Act, shall be allowed and read, and shall be deemed as good and competent evidence as if such witness had been present and sworn and examined vivâ voce at any trial for such crimes or misdemeanours as aforesaid in his Majesty's said Court of King's Bench, any law or usage to the contrary notwithstanding; and all parties concerned shall be intitled to take copies of such depositions at their own costs and charges.

Offences against this Act committed by the chief justices or judges to be determined by the Court of King's Bench.

[XLI.] And be it further enacted by the authority aforesaid, that in case the said chief justice or judges of the said Supreme Court of Judicature, or any of them, for the time being, shall commit any offence against this Act, or be guilty of any corrupt practice or other crime, offence, or misdemeanour in the execution of their respective offices, it shall and may be lawful for his Majesty's said Court of King's Bench in England, upon an information or indictment laid or exhibited in the said court for such crime, offence or misdemeanour, upon motion to be made in the said court, to award such writ or writs of mandamus as aforesaid, requiring the governor-general and council of the said united company's settlement at Fort William aforesaid, who are hereby respectively authorised and required accordingly, to assemble themselves in a reasonable time, and to cause all such proceedings to be had and made as are herein-before respectively directed and prescribed concerning the examination of witnesses; and such examination so taken shall be returned and proceeded upon in the same manner in all respects as if the several directions herein-before prescribed and enacted in that behalf were again repeated.

The chancellor, or speaker of the House of Commons, may issue warrants for the examination of witnesses in India, which shall be deemed com-

[XLII.] And be it further enacted by the authority aforesaid, that in all cases of proceedings in Parliament touching any offences against this Act, or any other offences committed in India, it shall and may be lawful for the lord high chancellor or speaker of the House of Lords, and also for the speaker of the House of Commons for the time being, in like manner to issue his or their warrant or warrants to the governor-general and council of the said united company's presidency of Fort William, and to the chief justice and judges of the said Supreme Court of Judicature, or the judges of the Mayor's Court at

Madras, Bombay or Bencoolen, as the case may require, for the examination of witnesses; and such examination shall be returned to the said lord high chancellor or speaker of the House of Lords, or to the speaker of the House of Commons respectively, and proceeded upon in the same manner in all respects as if the several directions herein-before prescribed and enacted in that behalf were again particularly repeated; and every such examination, returned either to the lord chancellor or speaker of the House of Lords, or to the speaker of the House of Commons as aforesaid, shall be deemed good and competent evidence, and shall be allowed and read in both houses of Parliament, or either of them respectively, as occasion may require, any law or usage to the contrary notwithstanding.

petent evidence to both houses of Parliament.

[XLIII.] And whereas by the usage and custom of Parliament, no proceedings by bill in Parliament have continuance from one session to another: And whereas it would be impracticable that the examination taken upon such warrant as aforesaid could ever be returned within the ordinary length of a session of Parliament: Be it enacted by the authority aforesaid, that from and after the first day of November one thousand seven hundred and seventy-three, no proceedings in Parliament touching any offence committed or to be committed in India, wherein such warrant as aforesaid shall have been issued, shall be discontinued by any prorogation or dissolution of the Parliament, but that such proceedings may be resumed and proceeded upon in a subsequent session or in a subsequent Parliament, in either house of Parliament, in like manner to all intents and purposes as they might have been in the course of one and the same session, any law, usage or custom to the contrary notwithstanding.

No proceedings in Parliament touching offences in India to be discontinued by prorogation or dissolution.

[XLIV.] And whereas his Majesty's subjects are liable to be defeated of their several rights, titles, debts, dues, demands or suits for which they have cause arising in India against other subjects of his Majesty: Now, for preventing such failure of justice, be it further enacted by the authority aforesaid, that when and as often as the said united company, or any person or persons whatsoever, shall commence and prosecute any action or suit in law or equity, for which cause hath arisen or shall hereafter arise in India, against any other person or persons whatever, in any of his Majesty's courts at Westminster, it shall and may be lawful for such court respectively, upon motion there to be made, to provide and award such writ or writs in the nature of a mandamus or commission as aforesaid to the chief justice and judges of the said Supreme Court of Judicature for the time being, or the judges of the Mayor's Court at Madras, Bombay, or Bencoolen, as the case may require, for the examination of witnesses as aforesaid; and such examination, being duly returned, shall be allowed and read, and shall be deemed good and competent evidence, at any trial or hearing between the parties in such cause or action, in the same

Writs of mandamus may be awarded by the courts at Westminster, when the company commence suits in law or equity there, for examination of witnesses in India.

manner in all respects as if the several directions herein-before prescribed and enacted in that behalf were again repeated.

No depositions returned to be allowed as evidence in capital cases not proceeded against in Parliament.

[XLV.] PROVIDED nevertheless, and be it enacted, that no such depositions taken and returned as aforesaid by virtue of this Act shall be allowed or permitted to be given in evidence in any capital cases other than such as shall be proceeded against in Parliament, anything in this Act contained to the contrary notwithstanding.

The privileges of the company not hereby varied shall remain in force.

[XLVI.] AND be it further enacted by the authority aforesaid, that all and every the rights, interests, powers, privileges and authorities which are now vested in the said United Company of Merchants trading to the East Indies, and which are not hereby expressly taken away, altered, or varied, shall remain to and continue in the said company in as full and ample a manner, to all intents and purposes whatsoever, as if this Act had never been made.

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21 GEORGE III. A. D. 1780-81.

CHAPTER LXX.

An Act to explain and amend so much of an Act made in the Thirteenth Year of the Reign of his present Majesty, intituled "An Act for establishing certain Regulations for the better Management of the Affairs of the East India Company, as well in India as in Europe," as relates to the Administration of Justice in Bengal; and for the Relief of certain Persons imprisoned at Calcutta in Bengal under a Judgement of the Supreme Court of Judicature; and also for indemnifying the Governor General and Council of Bengal, and all Officers who have acted under their Orders or Authority, in the undue Resistance made to the Process of the Supreme Court.

Preamble. Recital of 13 Geo. 3, c. 63.

WHEREAS, in virtue of an Act passed in the thirteenth year of his present Majesty's reign, intituled "An Act for establishing certain regulations for the better management of the affairs of the East India Company, as well in India as in Europe," his Majesty, by his royal letters patent of the twenty-sixth day of March, in the fourteenth year of his reign, did create and constitute a court of record, to be within the factory of Fort William at Calcutta in Bengal, called the Supreme Court of Judicature at Fort William in Bengal, with sundry directions, powers and authorities to the said court in the said letters patent set forth and expressed: And whereas many doubts and difficulties have arisen concerning the true intent and meaning of certain clauses and provisions in the said Act and letters patent, and by reason thereof dissension hath arisen between the judges of the Supreme Court and the governor-general and council of Bengal, and the minds of many inhabitants

subject to the said government have been disquieted with fears and apprehensions, and further mischiefs may possibly ensue from the said misunderstandings and discontents if a seasonable and suitable remedy be not provided: And whereas it is expedient that the lawful government of the provinces of Bengal, Bahar and Orissa should be supported, that the revenues thereof should be collected with certainty and that the inhabitants should be maintained and protected in the enjoyment of all their ancient laws, usages, rights and privileges: May it therefore please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that the governor general and council of Bengal shall not be subject, jointly or severally, to the jurisdiction of the Supreme Court of Fort William in Bengal for or by reason of any act or order, or any other matter or thing whatsoever counselled, ordered or done by them in their publick capacity only, and acting as governor general and council.

The governor general and council of Bengal not to be subject to the Supreme Court.

II. And it is hereby enacted and declared, that if any person or persons shall be impleaded in any action or process, civil or criminal, in the said Supreme Court for any act or acts done by the order of the said governor general and council in writing, he or they may plead the general issue, and give the said order in evidence; which said order, with proof that the act or acts done has or have been done according to the purport of the same, shall amount to a sufficient justification of the said acts, and the defendant shall be fully justified, acquitted and discharged from all and every suit, action and process whatsoever, civil or criminal, in the said court.

Persons impleaded in the Supreme Court for acts done by order of the governor general, &c. may plead the general issue, &c.

III. Provided always, that with respect to such order or orders of the said governor general and council as do or shall extend to any British subject or subjects, the said court shall have and retain as full and competent jurisdiction as if this Act had never been made.

Proviso.

IV. Provided also, that nothing herein contained shall extend or be construed to extend to discharge or acquit the said governor general and council, jointly or severally, or any other person or persons acting by or under their order, from any complaint, suit or process before any competent court in this kingdom, or to give any other authority whatsoever to their acts than acts of the same nature and description had by the laws and statutes of this kingdom before this Act was made.

The governor general, &c. to remain liable to any complaint before a competent court in this kingdom.

V. And in order to prevent all abuse of the powers given to the governor general and council, be it further enacted, that in case any person by himself or his attorney or counsel shall make a complaint to the Supreme Court, and enter the same in writing, and upon oath, of any oppression or injury, charg-

If any person making complaint to the Supreme Court against the governor

general, &c. shall execute a bond to the company to prosecute the same in some competent court in Great Britain, &c.,

ing the same to be committed by the said governor general or any member or members of the council, or any other person or persons by or in virtue of any order given by the said governor general and council, and shall execute a bond with some other person whom the said court shall deem responsible, jointly and severally, to the United East India Company, in such a penalty as the court shall appoint, effectually to prosecute the said complaint by indictment, information or action in some competent court in Great Britain, within two years of the making of the same, or of the return into Great Britain of the party or parties against whom the same is made, that then and in such case the party complaining shall be and is hereby enabled to compel by order of the court the production in the said Supreme Court of true copy or copies of the order or orders of council complained of, and to have the same authenticated by the court, and to examine witnesses upon the matter of the said complaint, and also on the part of the person or persons complained of; and the said parties, as well complaining as complained of, shall have and enjoy severally all manner of advantages, rights and privileges relative to proof of the said complaint or defence, and also relative to any mandamus or commission to be issued by any of his Majesty's courts in Westminster-hall, in case the court upon motion shall think fit to issue the same, as are provided in case of any suit in such cases by an Act of the thirteenth year of his Majesty's reign, intituled "An Act for establishing certain regulations for the better management of the affairs of the East India Company, as well in India as in Europe;" and the Supreme Court shall have the same powers for the compelling witnesses to appear and be examined, and the same rules and directions shall be observed for the transmitting the depositions of witnesses and other papers to this kingdom, as are provided by the said recited Act.

such person may compel, by order of the court, the production of copies of the orders complained of, &c.

Authenticated copies of orders, &c. shall be received in evidence in the courts at Westminster.

VI. And be it further enacted, that all copies so authenticated of orders of the said governor general and council, and also the depositions which shall have been taken in manner aforesaid before the Supreme Court, shall be received in evidence in any of his Majesty's courts of law or equity at Westminster.

Limitation of actions.

VII. And be it further enacted, that no prosecution or suit shall be carried on against the said governor general or any member of the council before any court in Great Britain (the High Court of Parliament only excepted), unless the same shall be commenced within five years after the offence committed, or within five years after his arrival in England.

Supreme Court not to have any jurisdiction in any matter

VIII. And be it further enacted, that the said Supreme Court shall not have or exercise any jurisdiction in any matter concerning the revenue, or concerning any act or acts ordered or done in the collection thereof, according to the

usage and practice of the country, or the regulations of the governor general and council.[1]

concerning the revenue.

* * * * * * * * *

XVII. Provided always, and be it enacted, that the Supreme Court of Judicature at Fort William in Bengal shall have full power and authority to hear and determine in such manner as is provided for that purpose in the said charter or letters patent all and all manner of actions and suits against all and singular the inhabitants of the said city of Calcutta; provided that their inheritance and succession to lands, rents and goods, and all matters of contract and dealing between party and party, shall be determined in the case of Mahomedans by the laws and usages of Mahomedans, and in the case of Gentûs by the laws and usages of Gentûs; and where only one of the parties shall be a Mahomedan or Gentû, by the laws and usages of the defendant.

How the Supreme Court shall determine actions between Mahomedan and Gentû inhabitants of Calcutta.

XVIII. And in order that regard should be had to the civil and religious usages of the said natives, be it enacted, that the rights and authorities of fathers of families and masters of families according as the same might have been exercised by the Gentû or Mahomedan law shall be preserved to them respectively within their said families; nor shall any acts done in consequence of the rule and law of cast respecting the members of the said families only be held and adjudged a crime, although the same may not be held justifiable by the laws of England.

The authority of fathers and masters of families among the natives to be preserved, &c.

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24 GEORGE III, SESS. 2. A.D. 1784.

Chapter XXV.

An Act for the better Regulation and Management of the Affairs of the East India Company and of the British Possessions in India, and for establishing a Court of Judicature for the more speedy and effectual Trial of Persons accused of Offences committed in the East Indies.

* * * * * * *

LXIV. And whereas it would conduce to the better government, management and ordering of the territories, possessions, revenues and commerce of the said united company [2] if some more effectual course than the common law hath provided were devised for the prosecuting and bringing to speedy and condign punishment persons guilty of the crime of extortion and other misdemeanors committed in the East Indies by British subjects holding offices or

Method of procedure against British subjects who shall be guilty of extortion or other misdemeanors in the East Indies.

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[1] 11 Beng. L. R. 250.

[2] i. e., the United Company of Merchants trading to the East Indies.]

employments there under his Majesty, his heirs or successors, or under the said united company: Be it therefore enacted by the authority aforesaid, that it shall and may be lawful to and for the coroner and attorney of our lord the King in the Court of King's Bench, by rule of the Court of King's Bench, to be obtained upon motion to be made for that purpose at the instance of any person or persons (and which rule the said court is hereby impowered to grant at their discretion, if the magnitude and circumstances of the case shall appear to the said court to render it proper), or for his Majesty's attorney general, or for the court of directors or court of proprietors of the said united company, in the name of the said united company, to exhibit in the said Court of King's Bench an information against any such person for any such offence as aforesaid committed after the first day of March one thousand seven hundred and eighty-five, whereupon the said court shall and may, at the instance of the prosecutor, cause the party against whom such information shall have been exhibited as aforesaid to be attached, and may and shall order him to stand committed to the prison of the Marshalsea or to the Tower of London or to the gaol of Newgate, at the discretion of the said court, there to be detained until he shall be delivered by due course of law, or until he, together with two sufficient sureties, shall have entered into a recognizance unto the King's Majesty, his heirs and successors, in such sum of money and with such condition for his appearance and for satisfying the judgement to be pronounced in and upon such information, as to the said court in its discretion shall seem meet; and when the defendant shall have appeared and pleaded to the said information, the chief justice or some of the justices of the said Court of King's Bench shall within ten days (unless any mandamus shall be granted for the examination of witnesses as herein-after provided, upon a motion to be made within a time to be limited by the said Court of King's Bench for that purpose) deliver the record of the said information and plea to the lord high chancellor of Great Britain, or lord keeper or lords commissioners for the custody of the great seal of Great Britain, who shall thereupon issue a commission under the said great seal in manner herein-after provided.

If any person accused shall neglect to appear, &c. the information shall proceed notwithstanding.

LXV. And be it further enacted, that if any person or persons against whom any information shall be exhibited under the authority of this Act shall neglect or refuse, within such respective times as shall be allowed to him or them for those purposes by the rules or according to the discretion of the said court, to appear and plead not guilty to such information, it shall and may be lawful for his Majesty's attorney general or other prosecutor to cause an appearance and the plea of not guilty to be entered for such person or persons, and the said information shall thereupon proceed as if the party or parties had appeared and pleaded not guilty thereto.

BENGAL SECRETARIAT LIBRARY

LXVI. And be it further enacted, that within thirty days from the commencement of the next and every future session of Parliament, the lords spiritual and temporal shall proceed to chuse, nominate and appoint twenty-six or more members of their house, and the commons of Great Britain, in Parliament assembled, forty or more members of the said House of Commons, to be chosen by ballot; and the speaker of each house respectively shall cause the list of the said names so chosen to be transmitted under their respective hands and seals to the clerk of the Crown in Chancery or his deputy; and that whenever a commission is to be issued under the great seal of Great Britain by virtue of this Act the lists so returned shall be delivered over to such three judges of the courts of King's Bench, Common Pleas or Exchequer, as the said courts shall for that purpose respectively appoint, one judge being nominated from each of the said courts respectively; and if the said lists shall contain more than twenty-six members of the House of Lords or forty of the House of Commons respectively, the said judges shall, within three days from the receipt thereof, cause the names contained in the said list or lists of either or both houses respectively (as the case may happen) to be put into a box or boxes, and twenty-six names of the said peers and forty names of the said commons to be publickly drawn by lot in the presence of the said judges, and that the said three judges shall have power and authority, and they are hereby required to give notice to all such members of the two houses of Parliament, whose names shall have been so returned or drawn by lot as aforesaid, and also to his Majesty's attorney general or other prosecutor, and also to the party accused, as the case may require, of the time and place to be appointed by the said judges (not exceeding twenty days from such lists being delivered to them as aforesaid) for proceeding in the execution of this Act, and the names of all such members of either House of Parliament as shall not attend in consequence of such notice shall be transmitted to the speaker of each house respectively within three days if Parliament be then sitting, or if not, within three days after the next meeting of Parliament; and all such persons as shall appear to have made default as aforesaid shall forfeit to his Majesty, his heirs and successors, the sum of five hundred pounds each, unless they shall offer such excuses as shall appear to each House of Parliament respectively to be valid and sufficient; and if any member of either House of Parliament whose name shall have been drawn by lot in the presence of the said judges as aforesaid shall have departed this life, or shall hold any civil office of profit under the crown during his Majesty's pleasure, or shall be or shall have been a member of the said board for the affairs of India [1],

Within thirty days from the commencement of every session, the House of Lords shall chuse by ballot twenty-six members of their house, and the House of Commons forty of theirs.

The lists to be delivered to three judges appointed by the different courts.

Names of the members of either house returned, &c. who shall not attend on receiving proper notice to be transmitted to the speaker. Defaulters to forfeit 500*l.* each.

[1 i. e., the board of commissioners for the affairs of India.]

or shall be or shall have been a director of the said company, or shall hold or shall have held any office or employment in the service of the said company in India, then in each and every such case another name shall be drawn out of the same box (if any such name there be) instead of the name of such person.

The senior judge present to be president of the meeting.

LXVII. And be it further enacted, that the senior of the said three judges present at the respective meetings of the said special commissioners shall be the president of such meeting or meetings, and that all questions, resolutions and determinations before the said special commissioners shall be by a majority of voices of the special commissioners then and there present; and if the voices shall be equal the then president shall have a second or casting voice.

Manner of chusing the twenty-six members of the House of Peers

LXVIII. And be it further enacted, that the members of the House of Peers hereby directed to be named by the said house for the purposes aforesaid shall be chosen, nominated and appointed in the manner following; (that is to say,) that at any time within thirty days from the commencement of the next and every future session of Parliament, when it shall appear that there are fifty lords spiritual and temporal at the least then present, the lords shall be called, and if there are fifty present the lords shall thereupon proceed to deliver in at the table lists, each of which lists shall contain the names of twenty-six lords, and shall be signed by the lord who delivers such list, which list being delivered in shall be referred to a committee of lords to be then appointed, who shall examine the said lists, and forthwith report to the house the name of every such lord whose name shall appear on ten such lists; and if the names so returned shall not amount to twenty-six at the least the lords present shall be required to deliver in fresh lists, each list containing a number of names equal to that number by which the list returned shall fall short of twenty-six, and so as often as the case shall happen; and no lord present when the house shall be called over shall depart until the said lists of twenty-six peers shall be made as aforesaid.

Manner of chusing the forty members of the House of Commons.

LXIX. And be it further enacted, that the members of the House of Commons hereby directed to be named by that house for the purposes aforesaid shall be chosen, nominated and appointed in the manner following; (that is to say,) that at any time within thirty days from the commencement of the next and every future session of Parliament (and after the speaker of the said house shall have taken the chair), it shall and may be lawful for any member after four of the clock in the afternoon to require that the doors of the house shall be locked, and that the house shall be told by the speaker; and if it shall appear that there are two hundred members or more then present the members of the house shall thereupon proceed to deliver in at the table lists, each of which lists shall contain the names of forty members, which lists

being delivered in shall be referred to a committee of five members to be then appointed, who shall examine the said lists, and shall forthwith report to the house the name of every such member whose name shall appear on twenty of the said lists; and if the names so returned shall not amount to forty at the least the members present shall be required to deliver in fresh lists, each list containing a number of names equal to that number by which the list returned shall fall short of forty, and so as often as the case shall happen; and the doors of the house shall not be opened until the said list of forty members or more shall be fully completed in manner aforesaid.

Names of persons holding offices under the crown during pleasure, &c. to be struck out of the list.

LXX. Provided always, and be it enacted, that if any of the persons named in such lists shall appear to hold any civil office of profit under the crown during his Majesty's pleasure, or to be or to have been a member of the said board for the affairs of India, or to be or to have been a director of the said company, or to hold or to have held any office or employment in the service of the said company in India, the names of all and every such persons shall be struck out of the said list returned to the house by the said committee upon such list being read over at the table.

The party to be tried shall have liberty to challenge thirteen peers and twenty commoners.

LXXI. And be it further enacted, that the names of all such members of either House of Parliament contained in the said lists of twenty-six peers and of forty commoners, which shall have been drawn by lot in presence of the three judges as aforesaid, as shall personally appear at the time and place appointed as aforesaid, shall be put into a box, to be drawn out by lot in presence of the said judges and of the parties or their counsel or agents; and the person against whom such information shall have been exhibited as aforesaid shall have the liberty, as the said names are drawn out, to make peremptory challenges to the number of thirteen of the peers and twenty of the members of the House of Commons whose names shall have been put into the said box; and his Majesty's attorney general or other prosecutor, as the case may happen, shall have power to make challenges to any of the names which shall be so drawn out, and to assign for cause of challenge any such matter as in the opinion of the three judges or the majority of them shall appear in their discretion sufficient to set them aside for the purpose of obtaining them equal justice; and the first four names of the said peers, and likewise the first six names of the said commoners, which shall be drawn out after the said number of challenges respectively, or which, being drawn out, shall not be so challenged, shall be returned by the said judges to the lord high chancellor, who shall cause the names of the said peers and members of the House of Commons, together with those of the said three judges appointed as aforesaid, to be inserted in the special commission to be issued by virtue of this Act; and the persons whose names are so inserted in the commission shall appear within ten

Prosecutor may also make challenges.

The first four names of the peers, and the first six of the commoners, drawn out after the challenges, &c. shall be returned by the three judges to the lord chancellor, to

be inserted, with those of the said judges, in a special commission, &c.

days at the time and place to be appointed by the said three judges, and take the following oath before the lord high chancellor or lord keeper or lords commissioners of the great seal for the time being, or any one of them:

Oath to be taken by the special commissioners.

I, A. B., do swear, that I will well and truly try and determine, to the best of my judgement, the matter now to be brought before me, according to the evidence that shall be given.

So help me GOD.

And in case the challenges shall reduce the number of names so drawn out to less than four peers and six commoners respectively, then and in such case the said three judges shall certify the same to the respective houses of Parliament, who shall proceed with all convenient dispatch to appoint and ballot afresh for lists of members to be transmitted to the clerk of the crown or his deputy, and afterwards to be inserted in a new commission to be issued in the manner herein-before directed; and the said special commissioners shall have full power and authority to hear and determine every such information, and to pronounce judgement thereon, according to the effect of the judgement of the common law upon convictions had and obtained according to the course of the common law for extortion or other misdemeanor; and also to declare the party so convicted incapable of serving the said united company in any capacity whatsoever; and that such judgement, to be pronounced by the said special commissioners as aforesaid in and upon such information, shall be good and effectual and conclusive to all intents and purposes whatsoever; and that no certiorari shall be granted by any court whatsoever for removing the proceedings of the said special commissioners on such information into any court whatsoever; and the proceedings of the said special commissioners shall not be impeached, or the validity thereof questioned, in any action or suit or other proceeding in any court of law or equity whatsoever.

Their powers.

Their proceedings not to be removed by certiorari, &c.

Seven commissioners to make a quorum.

LXXII. PROVIDED always, and be it further enacted, that it shall and may be lawful to and for the said special commissioners, or any seven or more of them (of whom one of the said three judges at the least shall always be one) to hear and determine every such information, and from time to time to adjourn as they shall think fit; and in case any number of the said special commissioners shall before the said commission shall have been fully executed depart this life or be rendered incapable of acting so that the number of the said special commissioners shall be reduced to six, or if all the said three judges shall happen to die or be rendered incapable of acting whilst the said commission shall be depending, then and in either of such cases and from thenceforth the said commission and the force and effect thereof shall cease, and a new commission

When the commissioners shall, by death, &c. be reduced to six, the commission shall be void, and a new one awarded.

shall be awarded for hearing the matter of such information for which such former commission was issued, and the proceedings therein shall begin de novo, save only and except with respect to the examination or deposition of any witnesses (if any) which shall have been taken in writing under the said former commission, which examinations or depositions shall and may be received and admitted as evidence under such new commission.

Commissioners to appoint a register.

LXXIII. And be it further enacted, that the said special commissioners shall nominate and appoint a fit and proper person or persons to act as their register or registers in the execution of the said commission; and when and so soon as the said commission shall have been fully executed, the said commission and the information and plea and the judgement had thereupon and all the depositions and examinations and other proceedings concerning the premises shall be delivered over by such register or registers unto the clerk of the crown in the Court of King's Bench, to be kept and recorded in that court.

Proceedings to be delivered over to clerk of crown, &c.

Subpœnas may be issued for the attendance of witnesses.

LXXIV. And be it further enacted by the authority aforesaid, that subpœnas requiring the attendance before the special commissioners to be appointed under this Act of any witness or witnesses as or on behalf of any person or persons prosecuted under the authority of this Act, may be issued out of the Crown Office of the Court of King's Bench; and in case any witness having due notice of such subpœna shall not attend in obedience to such subpœna his non-attendance shall be deemed a misdemeanor and subject him to be indicted; and in case any such witness shall attend, but shall refuse to be examined, it shall and may be lawful for the said special commissioners to punish such witness by fine or imprisonment at their discretion.

Non-attendance to be deemed a misdemeanor.

Punishment for refusal to be examined.

Commissioners may send for persons, papers and records, &c.,

LXXV. And be it further enacted, that the said special commissioners shall have full power and authority by virtue of this Act to send for persons, papers and records, and to examine all witnesses who shall come or be brought before them upon oath, to be taken before them, and to cause the examinations of such witnesses, if they shall so think fit, to be reduced into writing, and to be signed and subscribed by such witnesses respectively; and if any person brought before the said special commissioners shall prevaricate in his evidence or shall otherwise misbehave himself before the said special commissioners, the said special commissioners shall and may, if they shall so think fit, commit such person to the prison of the Fleet or the gaol of Newgate, there to remain for such time as the said special commissioners shall appoint, unless the said commissioners shall order them to be released sooner, which they are hereby impowered to do; and if any such witness shall wilfully give any false evidence before the said special commissioners, such witness shall be deemed guilty of wilful and corrupt perjury, and shall and may be indicted and punished for the same accordingly.

and may commit prevaricators to the Fleet, &c.

False evidence to be perjury.

The recognizance aforesaid shall bind all the goods and lands of the principal party at the time of entering into the same, &c.

LXXVI. And be it further enacted, that the recognizance to be entered into as aforesaid shall bind the property of all and singular the goods and chattels which were the goods and chattels of the principal party entering into such recognizance at the time of his entering into the same, or which he shall or may acquire at any time afterwards, and before he shall be discharged from such recognizance; and shall also bind all estate and interest in all lands, tenements, and hereditaments, whereof the said principal party shall be seised or possessed, or whereof any person or persons in trust for the party so entering into such recognizance (at the time of his entering into the same or at any time afterwards and before he shall be discharged therefrom) shall be seised or possessed.

Where the party shall be found guilty and adjudged to pay a fine, he may be examined by interrogatories in the Court of Exchequer as to his estate and effects. If he shall not appear, or refuse to answer, &c., he shall forfeit all his estate and be committed

LXXVII. And be it further enacted, that where the party against whom such information shall have been exhibited as aforesaid shall be adjudged to be guilty of the crime charged in such information, and shall be adjudged to pay a fine unto His Majesty, his heirs and successors, that it shall and may be lawful for His Majesty's attorney general or for the said united company or other prosecutor to exhibit interrogatories before the Court of Exchequer for the examination of the party adjudged to pay such fine as aforesaid, as to his estate and effects sufficient to answer the same fine; and if the said party shall not appear or shall refuse to answer to such interrogatories, or shall wilfully conceal any part of his estate or effects herein-before declared to be bound by such recognizance as aforesaid, or which shall by law be liable to be extended in satisfaction thereof, such party, on his default of appearance before such court, or on his refusal to answer such interrogatories, shall forfeit to the king's Majesty, his heirs and successors, all and singular his goods and chattels, lands, tenements and hereditaments whatsoever, and shall be liable to be imprisoned in the gaol of Newgate or the Tower of London for such time as the said Court of Exchequer shall direct.

Depositions of witnesses may be taken in India, and transmitted to the Court of King's Bench, and read before the special commissioners, and shall be deemed competent evidence.

LXXVIII. And whereas the provisions made by former laws for the hearing and determining in England offences committed in India have been found ineffectual by reason of the difficulty of proving in this kingdom matters done there; be it further enacted by the authority aforesaid, that in all cases of informations laid or exhibited by virtue of this Act in the said Court of King's Bench for misdemeanors or offences committed in India it shall and may be lawful for His Majesty's said court, upon motion to be made on behalf of His Majesty's attorney general or other prosecutor or of the defendant or defendants, to award a writ or writs of mandamus requiring the chief justice and judges of the supreme court at Fort William in Calcutta for the time being, or the judges of the mayor's court of any of the British settlements in India, as the case may require, who are hereby respectively authorized and

required accordingly, to hold a court with all convenient speed for the examination of witnesses and receiving other proofs concerning the matters charged in such informations respectively; and in the mean time to cause such publick notice to be given of the holding the said court, and to issue such summons or other process as may be requisite for the attendance of witnesses and of the agents or counsel of all or any of the parties respectively, and to adjourn from time to time as occasion may require, and such examination as aforesaid shall be then and there openly and publickly taken viva voce in the said court upon the respective oaths of witnesses and the oaths of skilful interpreters, administered according to the forms of their several religions, and shall by some sworn officer of such court be reduced into one or more writing or writings on parchment, in case any duplicate or duplicates should be required by or on behalf of any of the parties interested, and shall be sent to His Majesty in his Court of King's Bench closed up and under the seals of two or more of the judges of the said supreme court, and one or more of the judges of the said supreme court shall deliver the same to the agent or agents of the party or parties requiring the same; which said agent or agents (or in case of his or their death the person into whose hands the same shall come) shall deliver the same to one of the clerks in court of His Majesty's Court of King's Bench in the publick office, and make oath that he received the same from the hands of one or more of the judges of such court in India (or in what manner the same came into his hands), and that the same has not been opened or altered since he so received it (which said oath such clerk in court is hereby authorized and required to administer); and such depositions, being duly taken and returned according to the true intent and meaning of this Act, shall be allowed and read before the said special commissioners, and shall be deemed as good and competent evidence as if such witness had been present and sworn and examined viva voce at any trial before the said special commissioners for such crimes or misdemeanors as aforesaid, any law or usage to the contrary notwithstanding; and all parties concerned shall be entitled to take copies of such depositions at their own costs and charges; and the chief justice of the said Court of King's Bench or one of the judges of the said court shall with all convenient speed after such deposition shall have been so received, together with the said information and plea, cause the same to be delivered over to the lord high chancellor or lord keeper or lords commissioners for the custody of the great seal of Great Britain, who shall thereupon issue the commission under the great seal in the manner by this Act directed.

Chief justice of the King's Bench, &c. to deliver the deposition, &c. to the lord chancellor.

LXXIX. Provided always, and it is hereby further enacted, that no information or plea or deposition which by this Act is directed to be delivered over

Delivery thereof to be during term.

by the chief justice of the Court of King's Bench or one of the judges of the said court to the lord high chancellor or lord keeper or lords commissioners for the custody of the great seal of Great Britain, shall be so delivered over at any other time than during some one of the three usual and accustomed terms herein-after mentioned, that is to say, Hilary term, Easter term or Michaelmas term.

Writings received by the court of directors from India, and copies of writings sent by the court to their servants there, relative to the charge in the information, &c. may be admitted by the Commissioners as evidence.

LXXX. And in order to promote the ends of justice in ascertaining facts committed at so great a distance from this country by such evidence as the nature of the case will render practicable, be it further enacted, that in all proceedings upon such information as aforesaid as well the depositions taken under such commission or commissions after the publication thereof, as also all writings which shall have been transmitted from the East Indies to the court of directors of the said united company by their officers or servants resident in the East Indies in the usual course of their correspondence with the said court of directors, and copies of all writings which shall have been transmitted by the said court of directors or by any committee thereof to the officers and servants of the said united company resident in the East Indies, and which in any manner relate to the subject matter of the charge to be contained in such information or to the defence to be made thereto, may be admitted by the said commissioners to be offered in evidence, and shall not be deemed inadmissible or incompetent unless upon objections arising from the nature of the contents of the said writings, subject nevertheless to be impeached in point of credibility by such observations and objections as the nature of such evidence or other circumstances may suggest, any rule of the common law to the contrary notwithstanding.

Court of King's Bench, at the prayer of the prosecutor, &c. may order an examination de bene esse of witnesses upon interrogatories, &c.

LXXXI. And be it further enacted, that the said Court of King's Bench shall have power and authority at the prayer of his Majesty's attorney general or other prosecutor or of the party against whom such information shall be exhibited, to order an examination de bene esse of witnesses upon interrogatories to be had and taken before an examiner to be by them appointed for that purpose, or by commission as the case shall require, and to cause the depositions of such witnesses to be published when the same shall appear to them to be proper and necessary, and which depositions shall be afterwards admitted to be read in evidence before the said commissioners, and shall be deemed good and sufficient evidence in the law as aforesaid; saving all just exceptions to be taken to such depositions when the same shall be offered to be read as aforesaid.

Limitation of prosecutions.

LXXXII. And be it further enacted by the authority aforesaid, that no prosecution in consequence of this Act shall be commenced unless within the space of three years after the return of the party prosecuted into Great Britain,

or within three years after the delivery of the inventory or particular required by this Act.

LXXXIII. Provided always, and be it enacted, that nothing herein contained shall extend or be construed to extend to prejudice or affect the rights or claims of the publick or the said united company respecting the said territorial acquisitions and revenues. Not to affect the claims respecting the territorial acquisitions.

LXXXIV. And be it further enacted, that this Act shall take place and have commencement in Great Britain immediately after the same shall have received his Majesty's royal assent, and shall take place and have commencement in the several presidencies aforesaid [1] and in the territories thereunto belonging from the first day of January one thousand seven hundred and eighty-five. Commencement of this Act.

LXXXV. And be it further enacted, that this Act shall and shall be deemed and taken to be a publick Act. Publick Act.

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26 GEORGE III. A. D. 1786.

Chapter LVII.

An Act for the further Regulation of the Trial of Persons accused of certain Offences committed in the East Indies; for repealing so much of an Act made in the Twenty-fourth Year of the Reign of his present Majesty (intituled An Act for the better Regulation and Management of the Affairs of the East India Company and of the British Possessions in India, and for establishing a Court of Judicature for the more speedy and effectual Trial of Persons accused of Offences committed in the East Indies) as requires the Servants of the East India Company to deliver Inventories of their Estates and Effects; for rendering the Laws more effectual against Persons unlawfully resorting to the East Indies; and for the more easy Proof, in certain Cases, of Deeds and Writings executed in Great Britain or India.

Whereas by an Act made in the twenty-fourth year of his Majesty's reign, intituled "An Act for the better regulation and management of the affairs of the East India Company and of the British possessions in India, and for establishing a Court of Judicature for the more speedy and effectual trial of persons accused of offences committed in the East Indies," divers provisions were made and enacted for the more effectually prosecuting and bringing to speedy and condign punishment the crime of extortion and other misdemeanors committed in the East Indies by British subjects in the service of his Majesty Preamble. Recital of Act 24 Geo. 3. sess 2. c. 25.

[1 i. e., the several presidencies established in the East Indies.]

or of the said company, and particularly for constituting a special court of judicature for the trial of any information to be exhibited in his Majesty's Court of King's Bench against such offenders, under and by virtue of a commission to be awarded under the great seal of Great Britain, directed to four members of the House of Peers, six members of the House of Commons, and three of the judges of his Majesty's courts of law at Westminster, such members and judges to be selected and chosen in the manner prescribed by the said Act; and the said special commissioners to be so constituted by such commission, or any seven or more of them (of whom one of the said three judges was to be one), were by the said Act invested with full power and authority to hear and determine every such information, and to pronounce judgement thereon according to the effect of the judgement at common law upon convictions had and obtained according to the course of the common law for extortion or other misdemeanor: And whereas the selection of the members of the said respective Houses of Parliament for the purposes aforesaid may be rendered more easy and convenient: And whereas it is judged expedient that instead of seven not less than ten commissioners to be constituted by such commission as aforesaid should have authority to hear and determine any such information, and for that purpose that a greater number of members of each House of Parliament than is directed by the said Act should, together with the said three judges, be named and authorised as commissioners in and by such commission: And whereas it is also expedient that for giving greater vigour and efficacy to the proceedings and judgements of the said special commissioners further regulations should be provided and established: May it therefore please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that the members of the House of Lords by the said Act directed to be named by the said house for the purposes aforesaid shall be chosen, nominated and appointed in the manner following and no otherwise, any thing in the said recited Act contained to the contrary notwithstanding; (that is to say,) that within the first thirty sitting days of the House of Lords in every future session of Parliament the members of the said house or any of them may respectively deliver in at the table lists inclosed in covers sealed up, and having the words "East India Judicature" and their respective names or titles of honour by which they are generally known and distinguished indorsed on the outside thereof in their respective proper hand writing, every such list containing the names or titles of twenty-six peers; and that on the first sitting day after the expiration of the said thirty days the clerk of the Parliaments or his deputy or assistant, or such

Within the first thirty sitting days of each house in every session lists of twenty-six names to be delivered in, sealed up, by the members of the upper house, from which shall be selected twenty-six peers;

other person as the said house shall direct, shall prepare and lay upon the table of the said house a list of the names or titles of the lords who shall within the said thirty days have delivered such lists; and that on the next sitting day of the said house the said covers shall be opened by the clerk of the Parliaments or his deputy or assistant, or such other person as the said house shall direct, by the order of the speaker of the said house, during the sitting of the said house, and all the lists which shall be so delivered shall be taken out of the said covers and put into a box, and the said lists shall be referred by the said house to a committee, who shall examine the same, and within such time as the said house shall direct report to the house the name or title of every lord whose name or title shall appear in ten or more of such lists, and if the names or titles of the respective members so returned shall not amount to twenty-six members at the least, exclusively of such of the members so returned as shall be struck out of the said lists according to the directions of this Act, the members of the said house or any of them may on any of the next seven sitting days of the said house deliver in fresh lists in covers sealed up and indorsed in the manner herein-before directed, each of such lists containing a number of names or titles of members of the said house equal to that number by which the list returned by the committee shall, exclusively of the members struck out as aforesaid, fall short of twenty-six, and the said covers shall be opened and the lists disposed of, referred and proceeded upon after the end of the said seven days in the manner herein-before directed in respect to the said former lists.

and like lists of forty names to be delivered in by the members of the House of Commons from which shall be selected forty members.

II. And be it further enacted by the authority aforesaid, that the members of the House of Commons to be named by that house for the purposes aforesaid shall be chosen, nominated and appointed in the manner following and no otherwise, any thing in the said recited Act contained to the contrary notwithstanding; (that is to say,) that within the first thirty sitting days of the said house in every future session of Parliament the members of the said house or any of them may respectively deliver in at the table lists inclosed in covers sealed up, and having the words "East India Judicature" and their respective names indorsed on the outside thereof in their respective proper hand writing, each of which lists shall contain the names of forty members of the said house; and that on the first sitting day after the expiration of the said thirty days the clerk of the said house or his deputy or assistant, or such other person as the house shall direct, shall prepare and lay upon the table the names of all the members who shall have delivered such lists; and that on the next sitting day of the said house the clerk of the said house, or any or either of such other persons as aforesaid, shall at the table during the sitting of the said house, by the order of the speaker, take the lists out of the said covers and put the

said lists together into a box, and the said lists shall be immediately referred by the said house to a committee, who shall examine the same, and within such time as the house shall direct report to the house the name of every member whose name shall appear in twenty or more of the said lists, and if the names so returned shall not amount to forty at the least, exclusively of such of the said members therein named as shall be struck out of the said lists according to the directions of this Act, the members of the said house or any of them may, on any of the next seven sitting days of the said house, deliver in at the table of the said house fresh lists in covers sealed up and indorsed in the manner herein-before directed, each list containing a number of names of members of the said house equal to that number by which the list returned by the said committee shall, exclusively of such of the said names as shall be so struck out, fall short of forty, and the said lists shall be opened, disposed of, referred and proceeded upon after the end of the said seven days in the manner herein-before directed in respect to the said former lists; and the like order and course respectively as aforesaid shall be taken in each House of Parliament until the said numbers of twenty-six members of the House of Lords and forty members of the House of Commons shall have been returned to the said respective houses by the committees to whom the said lists shall be referred, exclusively of such of the members so returned as shall be struck out of the said lists according to the directions of this Act.

Persons holding offices under the crown during pleasure, &c. to be struck out of the lists.

III. Provided always, and be it enacted, that if any of the persons named in any of the lists returned by the said respective committees shall appear to hold any civil office of profit under the crown during his Majesty's pleasure, or to be or to have been a commissioner for the affairs of India, or to be or to have been a director of the said company, or to hold or to have held any office or employment in the service of the said company in India, the names of all and every such persons shall be struck out of the said lists by the order of the said respective Houses of Parliament.

Mode of delivering in lists to be altered by either House, if that proposed be found inconvenient.

IV. Provided also, and be it further enacted, that if the delivery of the said lists at the tables of the respective Houses of Parliament in the manner directed by this Act shall occasion any interruption of other business, or be found inconvenient in any other respect, it shall be lawful for both or either of the said houses, by their order or orders, to substitute such other mode for the delivery of such lists as the said houses shall respectively think fit, and that the said lists shall, after the making of any such order or orders, be delivered according to the tenor and directions thereof respectively, any thing herein-before contained to the contrary notwithstanding.

The party accused may peremptorily

V. And be it further enacted, that the names of the twenty-six peers and forty members of the House of Commons which shall have been so chosen by

the said respective Houses of Parliament, or the names of the twenty-six peers and forty members of the House of Commons which (in case the said lists of both or either of the said houses shall happen to contain a greater number of members than as aforesaid respectively) shall have been drawn by lot according to the directions of the said former Act, or of such of them as shall personally appear at the time and place appointed in the manner by the said Act directed, shall be put into a box to be drawn by lot in the presence of the judges to be appointed according to the directions of the said recited Act and of the parties to the information to be tried or their counsel or agents; and the person or persons against whom the said information shall have been exhibited shall have the liberty, as the said names are drawn out, to make peremptory challenges, to the number of thirteen of the peers and twenty of the members of the House of Commons whose names shall have been put into the said box; and his Majesty's attorney general or other prosecutor, as the case may happen, and also the party or parties against whom such information shall have been exhibited as aforesaid, shall respectively have power to make challenges to any of the names which shall be so drawn out, and to assign for cause of challenge any such matter as in the opinion of the three judges or the majority of them shall appear in their discretion sufficient to set aside the person or persons so challenged, for the purpose of obtaining equal justice; and the first five names of the said peers, and likewise the first seven names of the said members of the House of Commons, which being drawn out shall not be so challenged, or against whom no challenge shall have been allowed, shall be returned by the said judges to the lord high chancellor or lord keeper or lords commissioners for the custody of the great seal of Great Britain, who shall cause the said five peers and the said seven members of the House of Commons, by their respective proper names or titles of honour, together with the names of the said three judges, to be inserted in the special commission to be issued by virtue of the said recited Act and of this present Act, and the persons who shall be so named and authorised in and by the said commission shall appear within ten days at the time and place to be appointed by the said three judges, and shall then and there take the following oath before the lord high chancellor or lord keeper or lords commissioners of the great seal of Great Britain for the time being, or any one of them:

Challenge thirteen peers and twenty commoners contained in the lists, as the names are drawn by lot in the presence of the judges, according to the recited Act.

Prosecutor and accused may challenge any of the names, assigning reasons.

The first five peers and the first seven commoners whose names shall be drawn out and not challenged, to be, with the three judges, appointed special commissioners.

I, A. B., do swear, that as a commissioner appointed by his Majesty's commission for the trial of the information now at issue against C. D., I will diligently attend such trial, and that I will hear and determine the same to the best of my judgement, according to the evidence which shall be given.

So help me GOD.

Commissioners' oath.

If number be reduced by challenges to less than five peers and seven commoners, new lists to be made out.

VI. And be it further enacted, that if by reason of the challenges as aforesaid the number of names so drawn out as aforesaid shall be reduced to less than five peers and seven members of the House of Commons respectively, then and in such case the said three judges shall forthwith certify the same to the speakers of the respective Houses of Parliament, who shall lay the same before the said houses respectively, and the said houses shall respectively proceed, within any of the next seven days on which the said houses shall respectively sit for the dispatch of business, to choose, nominate and appoint twenty-six members of the House of Lords and forty members of the House of Commons after the manner and course aforesaid, the lists of which said respective members so chosen and appointed shall be transmitted to the clerk of the crown in his Majesty's High Court of Chancery or his deputy, and be inserted in a new commission to be issued in the manner herein-before and in the said former Act directed: Provided always, that no day on which the House of Commons shall have adjourned for want of the presence of a sufficient number of members to execute the provisions of the several Acts passed in the tenth and eleventh years of the reign of his present Majesty, to regulate the trials of controverted elections or returns of members to serve in Parliament, shall be accounted one of the sitting days of the said house for any of the purposes of this Act.

Certain days not to be accounted sitting days of House of Commons.

Power of the commissioners.

VII. And be it further enacted, that the said special commissioners to be appointed as aforesaid shall have full power and authority to hear and determine every such information, and to pronounce judgement thereon according to the effect of the judgement of the common law upon convictions had and obtained according to the course of the common law for extortion or other misdemeanor, and also to declare the party so convicted incapable of serving the King's Majesty, his heirs or successors, or the said united company, in any capacity whatever; and such judgement so pronounced by the said special commissioners as aforesaid, upon such information, shall be good and effectual, and shall be conclusive to all intents and purposes: and no certiorari shall be granted for removing the proceedings of the said special commissioners on such information into any court whatever; and the proceedings of the said special commissioners shall not be impeached or the validity thereof questioned in any action or suit or other proceeding in any court of law or equity.

Proceedings not removeable by certiorari, &c.

Ten commissioners competent to act.

VIII. Provided always, and be it enacted, that all and every the powers and authorities given and granted by the said recited Act and by this present Act unto the said special commissioners shall and may be executed by or before any ten or more of them (of whom one of the said three judges shall always be one); and that no act done or executed by or before the said commissioners, unless ten or more of the said commissioners (of whom one

of the said three judges shall be one) shall be present at the doing or executing thereof (save and except in the particular cases herein-after specially provided), shall be valid or effectual, any thing in the said former Act contained to the contrary notwithstanding.

Majority to determine, and the president to have a casting vote.

IX. PROVIDED also, and be it further enacted, that whenever the said special commissioners shall not concur in opinion upon any question or matter to be decided by or before them, every such question or matter shall be determined by the greater number of the said commissioners who shall be then present, so that the number of commissioners then present be not less than ten as aforesaid; and if the said commissioners shall at any time be equally divided in opinion on any question or matter depending before them, the judge then sitting as president shall have two voices, or the casting vote.

If by death or otherwise the number should be reduced under ten, &c a new commission to be made out.

X. AND be it further enacted, that if any of the said special commissioners shall depart this life, or be excused from attending in the manner by this Act directed, before the said commission shall have been fully executed, so that there shall not be a sufficient number of commissioners to proceed in the due execution of such commission, according to the true intent and meaning of this Act, or if all the said three judges shall happen to die or be excused from attending in the manner by this Act directed whilst the said commission shall be depending, then and in either of such cases and from thenceforth the said commission and the force and effect thereof shall cease, and a new commission shall be awarded for hearing the matter of such information for which such former commission was issued, and the trial of such information shall begin de novo, save only and except with respect to the examinations or depositions of any witnesses (if any) which shall have been taken in writing under the said former commission, which examinations or depositions shall and may be received and admitted as evidence under such new commission.

Commissioners to attend during the whole trial, unless absent by leave

XI. AND be it further enacted, that the said special commissioners shall severally attend in court during the whole trial for which they shall be appointed as aforesaid, and none of the said commissioners shall in anywise absent himself from the same (except as hereafter is provided), and the said court shall at no time proceed in the said trial until all the said special commissioners not having obtained such leave of absence or not having been excused as herein-after is provided shall be met and assembled; and if the said special commissioners (except as aforesaid) shall not all meet and assemble within the space of one hour after the time to which they shall have adjourned, such of them as shall be then present, or the major part of them, shall make an order for a further adjournment of the trial, in which order the cause of such further adjournment shall be expressed, and a copy of such order,

If all do not meet, the majority present may adjourn.

signed by the register to the said commissioners, shall be served upon or left at the usual or last place or places of abode of the said absent commissioner or commissioners respectively, and at such further adjourned meeting the cause of his or their absence shall be inquired into by the special commissioners who shall be then present before the said commissioners shall proceed to any other business, and if it shall not be made appear to the satisfaction of the said commissioners, by facts specially stated and verified before them upon oath (or in the case of such facts being verified by a peer of the realm, then upon his honour), that such absent commissioner or commissioners was or were by sudden accident or by necessity prevented from attending at the said former sitting, it shall and may be lawful for the special commissioners then present, or the major part of them, to pass such censure upon such commissioner or commissioners who shall have been so absent as they shall think fit, and also to impose upon such commissioner or commissioners respectively for such neglect of duty, or upon any commissioner or commissioners who shall depart from the said court during the sitting and before an adjournment thereof, such fine or fines as the said commissioners or the greater number of them then present shall think fit, so that no such fine shall exceed the sum of five hundred pounds, which fine or fines shall be forthwith estreated by one or more of the said three judges into the Court of Exchequer, and the like process shall be awarded by the said Court of Exchequer for levying the said fine or fines for his Majesty's use as is usually awarded for the levying of other fines estreated into the said Court of Exchequer; and the said special commissioners shall also have full power and authority to order or declare that any commissioner or commissioners who shall be so censured or on whom any such fine or fines shall be imposed shall be disabled from acting in the further execution of such commission.

Cause of absence to be enquired into.

Absentees may be censured or fined, and disabled from acting.

How fines are to be levied.

XII. Provided always, and be it further enacted, that it shall and may be lawful for the said commissioners or the greater number of them to grant leave of absence to any of the said commissioners upon proof to their satisfaction of sickness or other urgent occasion; and such of the said commissioners who shall obtain leave of absence as aforesaid, and shall accordingly be absent during any part of such trial, shall be no longer capable of acting under such commission, any thing contained in the said former Act or in this Act to the contrary notwithstanding.

Leave of absence may be granted to commissioners, who, however, are disqualified.

XIII. Provided also, and be it further enacted, that after the trial of any information shall have commenced and been begun by and before the said special commissioners, the said commissioners shall sit every day, Sunday, Christmas-day and Good Friday only excepted, and the said commissioners shall never adjourn for a longer time than twenty-four hours, unless a Sunday,

During a trial the commissioners not to adjourn for more than twenty-four hours, except on occasions

Christmas-day or Good Friday shall happen to intervene, in which case their adjournment shall not exceed twenty-four hours, exclusive of such Sunday, Christmas-day or Good Friday: Provided also, that if the number of the said special commissioners capable of acting in the execution of such commission, according to the directions of this Act, shall by death or otherwise be reduced to ten, and any of such ten commissioners shall be prevented by sudden accident or by necessity from attending such trial, the said other commissioners or the greater number of them shall and may at their discretion adjourn and suspend the proceedings upon such trial from time to time as circumstances may require, so that any such adjournment shall not exceed three days, and the number of such successive adjournments shall not in the whole exceed ten adjournments, any thing herein-before contained to the contrary notwithstanding.

herein specified.

XIV. And be it further enacted, that it shall and may be lawful to and for the said special commissioners to constitute and appoint such clerks, tipstaffs, messengers and other officers to attend upon them in the execution of their said commission, and to do and perform all such matters and things as shall be ordered or given to them in charge by the said commissioners, as the said commissioners shall think fit; and such several clerks and other officers shall be diligently attendant upon and subject and obedient to the said commissioners, and may be suspended, removed or discharged, or be punished by fine or fines to be imposed by the said commissioners for any neglect of duty or disobedience, at the discretion of the said commissioners, which fines shall be estreated into his Majesty's Court of Exchequer by one or more of the said three judges, and shall and may be levied and recovered for his Majesty's use by the process of the said court; and all and every of such clerks and other officers shall be paid by the parties informant or informants and defendant or defendants named in such information the same or the like fees and allowances as the respective officers attendant upon his Majesty's Court of King's Bench upon trials of informations for misdemeanors prosecuted in the said court are entitled to receive from the parties thereto respectively, according to the stations and duties of such officers respectively.

Commissioners may appoint clerks, &c., who may be removed, &c.

How clerks, &c., are to be paid.

XV. And be it further enacted, that whenever an information shall be exhibited in the said Court of King's Bench against any person or persons for the crime of extortion or other misdemeanor committed in the East Indies, in every such case, upon a certificate from the coroner and attorney of our lord the King (commonly called the clerk of the crown in the Court of King's Bench or the master of the crown office in the said court), or any or either of his sworn clerks in the said office, that such information hath been filed (which information, in case the same shall be filed when the Court of King's

Court of King's Bench may issue out warrants for apprehending persons accused of extortion, &c. in the East Indies.

Bench shall not be sitting, shall be considered as filed on the last day of the preceding term), it shall and may be lawful to and for the lord chief justice or any of the other judges of the said court, at the instance of such prosecutor or prosecutors, to issue his warrant under his hand and seal directed to all sheriffs, mayors, bailiffs, constables and other peace officers, and to such other person or persons as shall be named for that purpose by such prosecutor or prosecutors, for apprehending and attaching the party or parties defendant or defendants to such information; and if such party or parties shall escape or go into, reside or be in any place within that part of Great Britain called Scotland, it shall and may be lawful for the sheriff or steward depute or substitute or any justice of the peace of the county or place into which such party or parties shall escape or go or in which he or they shall reside or be to indorse his name on the said warrant, which warrant so indorsed shall be a sufficient authority to all persons to whom such warrant was originally directed, and also to all sheriffs officers, stewards officers, constables and other peace officers of the said county or place by the sheriff, steward depute or substitute, or justice of the peace whereof such warrant shall be so indorsed, to execute the said warrant in the same county or place by apprehending the party or parties against whom such warrant shall have been granted, and to convey and bring such party or parties in safe custody before the said Court of King's Bench or before the lord chief justice or any of the judges of the said court, to be further dealt with according to the directions of the said former Act and this present Act.

If person accused escape, &c. into Scotland, warrant to be endorsed by sheriff, &c. there.

Parties informed against to be committed or to find bail.

XVI. And be it further enacted, that it shall and may be lawful to and for the party or parties against whom any such information shall be exhibited as aforesaid (not being attached) to surrender himself or themselves in the said Court of King's Bench at any time during the sitting of the said court, to be dealt with according to the directions of the said former Act and this present Act, or if the said court shall not be sitting, unto the said lord chief justice or any other of the judges of the said court; and that when and so often as any such party or parties shall surrender himself or themselves out of court as aforesaid, or shall during any vacation or when the said court shall not be sitting be attached and brought before the said lord chief justice or other judge under any warrant or attachment issued by virtue of the said former Act or this present Act, the said lord chief justice or other judge shall and may order such party or parties to stand committed to the prison of the Marshalsea or to the Tower of London or to the gaol of Newgate, at the discretion of the said lord chief justice or other judge, there to be detained until he or they shall be delivered by due course of law, or until he or they, together with two sufficient sureties, shall have entered into a recognizance

unto the King's Majesty, his heirs and successors, in such sum of money, and with such condition for his appearance and for submitting to the judgement to be pronounced in and upon such information, as the said lord chief justice or other judge shall in his discretion order and direct: Provided always, that it shall and may be lawful for the said commissioners to order any person in custody under the provisions of this Act to be from time to time brought up and remanded in such manner as to the said commissioners shall seem meet.

Mode of proceeding when parties abscond, &c.

XVII. And be it further enacted, that when and so often as any party or parties against whom any such information as aforesaid shall be exhibited shall not be attached or shall not have surrendered as aforesaid, and proof shall be made by any affidavit or affidavits to the satisfaction of the said Court of King's Bench that such party or parties is or are beyond the seas, or that upon enquiry at his or their usual place or places of abode or last known place or places of residence in Great Britain he or they could not be found, and that there is just ground to believe that such party or parties is or are gone, or doth or do continue out of the realm, or doth or do otherwise abscond, to avoid being attached to answer the matters charged in and by such information, then and in such case the said court shall and may make a rule or order directing and appointing such party or parties to surrender himself or themselves in the said court or to the lord chief justice or one of the other judges of the said court, at a certain day in and by such rule or order to be limited and expressed at the discretion of the said court; and a copy of such rule or order shall within twenty days after the making thereof be inserted three several times in the London Gazette, and another copy of such rule or order shall within the time aforesaid be affixed in some conspicuous and publick place in the India House; and if the said party or parties shall not surrender himself or themselves respectively according to the tenor of such rule or order within the time therein to be limited for that purpose, or within such further time as the said court shall appoint or direct (which the said court is hereby impowered to do, on application being made on the behalf of such party or parties, if the said court shall see cause), then, on proof being made of the publication of such rule or order in manner aforesaid, it shall and may be lawful for his Majesty's attorney general or other prosecutor, by rule and leave of the said court (which rule and leave the said court is hereby impowered to grant), to cause an appearance and the plea of not guilty to be entered for such party or parties charged by the said information, and the said information shall thereupon proceed as if the party or parties had appeared and pleaded not guilty thereto.

Appearance to be entered for party not appearing, &c.

Notice of trial

XVIII. Provided always, and be it further enacted, that in all cases where

to be given where accused does not appear.

the plea of not guilty shall be entered for the party or parties defendant or defendants to any information by the prosecutor or prosecutors thereof, by virtue and according to the directions of this Act, it shall be sufficient, in order to the hearing and determining of such information, for such prosecutor or prosecutors to give fourteen days notice of the day appointed for the trial thereof by advertisement in the London Gazette, any law, usage or practice to the contrary notwithstanding.

Judgement to be pronounced by the commissioners, though the parties accused do not appear.

XIX. And be it further enacted, that if any party or parties charged by any such information as aforesaid shall make default in his or their personal appearance at the pronouncing of judgement in the matter of such information by and before the said special commissioners, it nevertheless shall and may be lawful for the said commissioners to pronounce judgement upon such information in the same manner as if the said party or parties was or were personally present, and every such judgement shall be as valid, effectual and conclusive to all intents and purposes whatever as if the said party or parties had been personally present at the pronouncing thereof, any law or usage to the contrary notwithstanding.

Parties accused may be committed during trial.

XX. And be it further enacted, that whenever the party or parties charged by any such information shall personally appear before the said special commissioners on the hearing or trial thereof, it shall and may be lawful to and for the said special commissioners at any time during the course of such trial to order such party or parties to stand committed to the prison of the Marshalsea or to the Tower of London or to the gaol of Newgate, at the discretion of the said special commissioners, there to be detained until judgement shall be pronounced in the matter of the said information, unless he or they shall be previously delivered or discharged by the rule or order of the said commissioners.

Disturbers of the court may also be committed.

XXI. And be it further enacted, that if any person or persons shall be guilty of any contempt or disturbance in the court of the said commissioners during the sitting of the court, it shall and may be lawful to and for the said commissioners to order such person or persons to be taken into custody by any officer or officers to be appointed by the said commissioners to attend the said court, and to stand committed to the prison of the Marshalsea or the gaol of Newgate, at their discretion, to be there kept for such time as the said commissioners shall order and direct.

Judgements of the commissioners to be executed by the Court of King's Bench;

XXII. And be it further enacted, that the judgements which shall be made and pronounced by the said special commissioners according to the directions and under the authority of the said recited Act and this present Act shall, when and so soon as the said judgements and other proceedings shall have been delivered over by the register to the said commissioners to the clerk of

the crown in the said Court of King's Bench (otherwise called the coroner and attorney of our lord the King or the master of the crown office in the said court) in the manner directed by the said former Act, be executed and enforced by the authority of the said Court of King's Bench, and such proceedings to outlawry and other proceedings against the several and respective defendants thereto shall and may be had thereon in the like manner as according to the course and practice of the said court may be had upon judgement made and pronounced by the said court; and the judgements of the said special commissioners shall be final and conclusive to all intents and purposes whatever, and shall not be arrested, defeated, reversed or avoided, or liable to be arrested, defeated, reversed or avoided, for or by reason or means of any error, defect or want of form in any such judgement or in the information whereon the same shall be given or pronounced, or in the award of any process thereon, or in the record of the issue for the trial thereof, any law, statute or usage to the contrary notwithstanding.

and to be final.

XXIII. Provided always, and be it further enacted and declared, that nothing in the said recited Act or in this present Act contained shall extend or be construed to extend to deprive the prosecutor or prosecutors of any such information as aforesaid, or the party or parties defendant or defendants thereto, of any right, liberty, benefit or advantage to which, by the law of the land or the rules of practice of the Court of King's Bench, such prosecutor or prosecutors, defendant or defendants, is or are, or would, could or might have been entitled upon any other information of a like nature depending in the said Court of King's Bench, before issue in fact joined therein; nor to prevent or restrict the said Court of King's Bench from exercising any such power or authority as would, could or might have been legally exercised by the said Court of King's Bench in the matter of any such information before issue in fact joined therein, if the said former Act or this present Act had not been made, any thing in the said former Act or this present Act contained to the contrary notwithstanding.

This or the recited Act not to deprive persons of any right they are entitled to by law, &c.;

nor to restrict powers of Court of King's Bench.

XXIV. Provided also, and be it further enacted, that if the party or parties charged by any such information as aforesaid shall enter a demurrer to such information, and such demurrer shall be over-ruled by the said Court of King's Bench, such party or parties shall within eight days next after the said court shall have given judgement on such demurrer, unless a writ of error shall be brought thereon, and then within eight days next after such judgement shall be affirmed or such writ of error shall be nonpros'd, enter the plea of not guilty to such information, or in default thereof the said plea of not guilty shall and may be entered for and in the name or names of such party or parties by his Majesty's attorney general or other prosecutor, and the said

Mode of proceeding where demurrers are entered and overruled.

information shall proceed in the like manner as if no demurrer had been entered thereto, any law or the usage or practice of the said court to the contrary notwithstanding.

Informations may at option of prosecutor be tried in the Court of King's Bench.

XXV. PROVIDED also, and be it further enacted and declared, that if his Majesty's attorney general or other prosecutor or prosecutors of any such information shall be desirous of having the same proceeded in, tried and determined in the said Court of King's Bench, and shall move the said court for that purpose, then and in every such case the said court shall grant a rule or order for retaining such information in the said court, and the said information shall be accordingly retained by the said Court of King's Bench, and shall be heard, tried, adjudged and determined by the said Court of King's Bench in such and the same manner to all intents and purposes as an information of the like nature would, could or might have been proceeded in, heard, tried and determined in and by the said court in case the said former Act or this present Act had not been made, any thing in the said former Act or this present Act contained to the contrary notwithstanding.

How fines, &c. are to be recovered in England;

XXVI. AND be it further enacted, that whenever the party or parties against whom any such information shall have been exhibited as aforesaid shall be adjudged to pay a fine or fines to his Majesty, his heirs or successors, and also whenever any recognizance or recognizances entered into under the said former Act or this present Act shall become forfeited, the said Court of King's Bench, or in case the said court shall not be then sitting, the lord chief justice of the same court, shall and may forthwith, at the instance of his Majesty's attorney general or other prosecutor, deliver to the lord chief baron or any other of the barons of the Court of Exchequer an estreat of the fine or fines, recognizance or recognizances, so adjudged or become forfeited respectively as aforesaid, and the said lord chief baron or other of the said barons shall thereupon, at the requisition of the said attorney general or other prosecutor, authorise and direct the proper officer of the same court to award, and such officer shall accordingly forthwith award, under the seal of the same court, one or more special writ or writs of extendi facias and capias or other special process against the said party or parties adjudged to pay such fine or fines, or the principal or principals and sureties in such recognizance or recognizances respectively, and their lands, tenements and hereditaments, goods, chattels and effects, directed into such county or counties, cities, places or liberties, to the proper sheriffs or other officers of the same respectively, for the due execution thereof, as the said attorney general or other prosecutor shall desire or require in that behalf; and if such party or parties or such principal or principals and sureties or any of them shall have or be seised or possessed of or entitled to any lands, tenements or hereditaments, goods, chattels, estate or effects

in Scotland.

situate, lying or being within that part of Great Britain called Scotland, or shall be resident in that part of the said United Kingdom, then and in either of such cases his Majesty's Court of Exchequer in Scotland, or when the said court shall not be sitting, the lord chief baron or any other of the barons of the said Court of Exchequer in Scotland, upon a copy or transcript of the estreat of such fine or fines, recognizance or recognizances, being sent or transmitted into the same court or delivered to the said lord chief baron or any other of the barons of the same court, from and under the seal of the Court of Exchequer in England or under the hand and seal of the lord chief baron or any other of the barons thereof, (and which copy or transcript the said Court of Exchequer in England, or when the said court shall not be sitting, the lord chief baron or any other of the barons of the same court, is and are hereby required, at the instance of his Majesty's attorney general or other prosecutor, to send and transmit accordingly,) shall and may forthwith, at the instance of the said attorney general or other prosecutor, carry on such proceedings and award such and the like process and processes as is and are competent by the law of that part of Great Britain called Scotland for recovery of debts due to the crown.

Mode of recovering fines from property in the East Indies, when the effects in Britain are insufficient.

XXVII. And be it further enacted, that if it shall at any time be made to appear to the satisfaction of the said Court of Exchequer in England, at the instance of his Majesty's attorney general or other prosecutor, by motion in the said court on his or their behalf, that such party or parties, principal or principals or sureties as aforesaid or any of them have no lands, tenements or other estate or effects in Great Britain, or that the same (if any) are not sufficient to answer the sum or sums forfeited by such recognizance or recognizances or due for such fine or fines respectively, and that such party or parties, principal or principals or sureties or any of them shall have or be seized or possessed of or entitled to any lands, tenements or hereditaments, goods, chattels, debts, estate or effects within any of the British possessions in the East Indies respectively (the said sum or sums, fine or fines, not being paid and satisfied), then and in every such case the said Court of Exchequer shall and may by rule or order of the said court cause one or more transcript or transcripts of the estreats of the said recognizance or recognizances, fine or fines, to be sealed with the seal of the said court or to be otherwise attested as the said court shall direct, and the same so sealed or attested shall be closed up under the seals of any two of the barons of the said court, directed to the Supreme Court of Judicature in Bengal and to the mayor's courts at Madras and Bombay, or to any or either of the said courts, as the case shall or may require; and the same shall be delivered by the said barons or one of them to such agent or agents as the prosecutor or prosecutors shall

nominate or appoint for that purpose, which agent or agents (or in the case of his or their death the person into whose hands the same shall come) shall deliver such transcript or transcripts to one of the judges of the said Supreme Court or mayor's courts respectively, as the case may be or require, and make oath that he or they did receive the same from the hands of one of the said barons (or in what other manner the same came into his or their hands), and that the same hath not or have not been opened or altered since he or they so respectively received the same (which oath any of the said judges of any of the said courts in India are hereby authorised and required to administer), and thereupon such transcript or transcripts shall be filed and recorded in such of the said courts in India to which the same shall be so directed, as the case may require; and upon motion to be made in such courts or court for that purpose, for and on the behalf of such prosecutor or prosecutors, the like process and proceedings shall and may from time to time be awarded and had by and in the said Supreme Court of Judicature and the said mayor's courts at Madras and Bombay respectively, or any or either of them, against the lands, tenements or hereditaments, goods, chattels, debts, estate and effects of the said party or parties, principal or principals and sureties within the limits of the jurisdictions of such respective courts in the East Indies as might or could have been awarded or had in the said Court of Exchequer in England against the lands, tenements, hereditaments, goods, chattels, debts, estates and effects of the same party or parties, principal or principals or sureties in England, and the same shall be valid and effectual, any law, usage or custom to the contrary notwithstanding.

Recital of Act 24 Geo. 3. sess 2. c. 25. s. 78.

XXVIII. And whereas it is by the said recited Act enacted, that in all cases of informations laid or exhibited by virtue of the said Act in the Court of King's Bench for misdemeanors or offences committed in India, it shall be lawful for the said court to award a writ or writs of mandamus to the chief justice and judges of the Supreme Court of Fort William, or the judges of the mayor's court of any of the British settlements in India, as the case may require, who are thereby respectively authorized and required accordingly, to hold a court for the examination of witnesses and receiving other proofs concerning the matters charged in such informations respectively, and that such examination shall be then and there openly taken and reduced into writing in manner therein mentioned and sent to his Majesty in his Court of King's Bench, closed up and under the seals of two or more of the judges of the said Supreme Court, and that one or more of the judges of the said Supreme Court shall deliver the same to the agent or agents of the party or parties requiring the same, which said agent or agents (or in case of his or their death the

person into whose hands the same shall come) shall deliver the same to one of the clerks in court of his Majesty's Court of King's Bench in the publick office, and make oath that he received the same from the hands of one or more of the judges of such court in India (or in what manner the same came into his hands), and that the same hath not been opened or altered since he so received the same: And whereas a doubt may arise whether such examinations as may be taken by the judges of the mayor's court in any of the British settlements in India by force and virtue of the said Act may be lawfully sent closed up under the seals of the same judges, and whether any one or more of the same judges is or are impowered to deliver the same to the agent or agents of the party requiring the same: Be it therefore enacted, that every examination which shall or may be had or taken by the judges of the mayor's court of any of the British settlements in India by force and virtue of the said Act (being reduced into writing as in the said Act is directed or mentioned) shall be sent to his Majesty in his Court of King's Bench closed up and under the seals of two or more of the judges of the mayor's court of any of the British settlements in India, and one or more of the judges of the same court shall deliver the same to the agent or agents of the party or parties requiring the same, which said agent or agents (or in case of his or their death the person into whose hands the same shall come) shall deliver the same to one of the clerks of his Majesty's Court of King's Bench, in the publick office, and make such or the like oath as is in and by the said Act directed and prescribed, any thing in the said Act contained to the contrary notwithstanding.

Examinations taken in the mayors' courts in India to be sealed up and given to the agents of the parties, to be delivered to the clerks of the King's Bench.

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XXX. And be it further enacted and declared, that the governor or president and council of Fort Saint George for the time being, in their courts of oyer and terminer and gaol delivery and quarter or general sessions of the peace, and also the mayor's court at Madras, according to their several and respective judicatures, shall have cognizance and jurisdiction, as well civil as criminal, over all British subjects whatsoever who now reside or shall hereafter reside within any of the forts, factories, towns, lands or territories in the possession of the said united company on the coast of Coromandel or in any other part of the Carnatic, or in the five northern circars, including those parts of the said circars which lie within the kingdom or province of Orixa, or within any of the dominions or territories of the soubah of the Deckan, the nabob of Arcot or the rajah of Tanjore.

Governor, &c. of Fort Saint George, &c. to have jurisdiction in all matters civil and criminal.

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XXXVIII. And whereas great difficulties, expence and delay often arise in giving proof in Great Britain of the execution of bonds and other deeds

Bonds executed in the East Indies shall

be evidence in Britain, and contrariwise, on proof of the hand writing of the parties.

and writings executed and witnessed by persons resident in the East Indies, and the like difficulties, expence and delay also arise in giving proof in the East Indies of the execution of bonds and other deeds and writings executed and witnessed by persons resident in Great Britain: For remedy thereof, be it enacted, that whenever any bond or other deed or writing executed in the East Indies, and attested by any person or persons resident there, shall be offered in evidence in any of the courts of justice in Great Britain, it shall be sufficient to prove by one or more credible witness or witnesses that the name or names subscribed to such bond, deed or writing purporting to be of the hand or hands writing of the obligor or obligors to such bond, or of the party or parties to such deed or writing, is or are of the proper hand writing or hands writing of such obligor or obligors, party or parties respectively, and that the name or names set and subscribed of the witness or witnesses attesting the execution of the same respectively is or are of the proper hand or hands writing of the witness or witnesses so attesting the same, and that such witness or witnesses is or are resident in the East Indies; . . . . . and such proofs shall be deemed and taken to be as valid and sufficient evidence of the due execution of such bonds and other deeds and writings as if the witness or witnesses thereto was or were dead.

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33 GEORGE III. A. D. 1792-93.

Chapter LII.

An Act for continuing in the East India Company for a further Term the Possession of the British Territories in India, together with their exclusive Trade, under certain Limitations; for establishing further Regulations for the Government of the said Territories and the better Administration of Justice within the same; for appropriating to certain Uses the Revenues and Profits of the said Company; and for making Provision for the good Order and Government of the Towns of Calcutta, Madras and Bombay. [1] [*11th June 1793.*]

Preamble.

Whereas it is expedient that the exclusive trade of the United Company of Merchants of England trading to the East Indies, within the limits of their charter, which by an Act made in the twenty-first year of his Majesty's reign, for establishing an agreement with the said company, and other purposes, was continued to them for a term thereby limited, should be further continued to them and their successors, under certain limitations and restrictions, for a term of twenty years, to be computed from the first day of March one thousand

21 Geo. 3. c. 65.

[1 So much of this Act as requires seniority as a condition or qualification for the appointment of civil servants to offices, places or employments, repealed, 24 & 25 Vict. c. 54. s. 7.]

seven hundred and ninety-four, liable to be discontinued at or after the end of such period, upon three years notice previously given by Parliament for that purpose; and that during the said further term all the territorial acquisitions obtained in the East Indies, which by an Act made in the seventh year of his Majesty's reign, for establishing an agreement for the payment of a certain annual sum for a limited time by the said company in respect of the said acquisitions and the revenues thereof, and by subsequent Acts, were continued in the possession of the said company, together with the territorial acquisitions lately obtained there, with the revenues of the same respectively, should remain in the possession of the said company, without prejudice to the claims of the publick or of the said company, subject to such powers and authorities for the superintendance, direction and controul over all acts, operations and concerns which relate to the civil or military government or revenues of the said territories as have been already made or provided by any Act or Acts of Parliament in that behalf, or to such further powers, and under and subject to such other rules, regulations and restrictions relating to or concerning the said civil government and the appropriation of the said revenues, as shall be now made and provided by the authority of Parliament: May it therefore please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that the said territorial acquisitions in the said former Acts mentioned, together with the territorial acquisitions lately obtained in the East Indies, with the revenues thereof respectively, shall remain and continue in the possession of the said united company for and during the further term by this Act granted to them in the said exclusive trade, subject nevertheless to the several regulations and provisions in this Act contained.

7 Geo. 3. c. 57.

Territorial acquisitions, with the revenues, to continue in the possession of the East India Company for a further time.

II. And be it further enacted by the authority aforesaid, that it shall and may be lawful for his Majesty, his heirs or successors, by any letters patent, or by any commission or commissions to be issued under the great seal of Great Britain, from time to time to nominate, constitute and appoint, during his or their pleasure, such members of the Privy Council (of whom the two principal secretaries of state and the chancellor of the Exchequer for the time being shall always be three), and such other two persons as his Majesty, his heirs or successors, shall think fit, to be and who shall accordingly be and be styled Commissioners for the Affairs of India.

His Majesty may appoint Commissioners for the affairs of India.

III. And be it further enacted, that any three or more of the said commissioners shall and may form a board for executing the several powers which by this Act or by any other Act or Acts are or shall be given to or vested in the said commissioners; and that the first named commissioner in any such

Three commissioners to form a board.

President of the board.

letters patent or commission for the time being shall be the president of the said board; and that when any board shall be formed in the absence of the president the commissioner whose name shall stand next in the order of their nomination in the said commission, of those who shall be present, shall for that turn preside at the said board.

President to have the casting vote.

IV. And be it further enacted, that if the commissioners present at any board shall be equally divided in opinion in respect to any matter by them discussed, then and on every such occasion the president, or in his absence the commissioner acting as such, shall have two voices or the casting vote.

Board may appoint officers.

V. And be it further enacted, that the said board of commissioners shall and may nominate and appoint such secretaries and officers as shall be necessary to attend upon the said board, who shall be subject to dismission at the pleasure of the said board; and that the proceedings of the said commissioners shall be entered in proper books; and that as well the said commissioners or such and so many of them as his Majesty shall think fit, as likewise their secretaries and other officers, shall be paid such fixed salaries as his Majesty shall by any warrant or warrants under his sign manual, countersigned by the chancellor of the Exchequer for the time being, direct; and that in the mean time the salaries and allowances already granted to the secretaries and officers of the present board of commissioners for the affairs of India shall be continued; all which salaries, together with all other contingent charges and expences to be incurred by the said board, shall be paid and defrayed quarterly by the said company, and deemed and taken as part of their commercial charges, the quarterly amount thereof being first settled and allowed by the said board, and certified by the president or acting president of the said board for the time being, to the court of directors of the said company: . . . . . .

Salaries to be fixed by his Majesty, &c.

Commissioners to take the following oath.

VI. Provided also, and be it further enacted, that the said commissioners, before they shall proceed to act in execution of any of the powers or authorities vested in them (save only the power of administering the oath after mentioned), shall severally take and subscribe the following oath; (that is to say,) I A. B. do faithfully promise and swear, that, as a commissioner or member of the board for the affairs of India, I will give my best advice and assistance for the good government of the British possessions in the East Indies and the due administration of the revenues of the same according to law, and will execute the several powers and trusts reposed in me according to the best of my skill and judgement, without favour or affection, prejudice or malice, to any person whatever.

Which oath any two of the said commissioners shall and are hereby impowered to administer to the others of them or any of them; and the said oath shall

be entered by their chief secretary amongst the acts of the board, and be duly subscribed and attested by the said commissioners at the time of their taking and administering the same to each other respectively.

Officers of board to take oaths.

VII. And be it further enacted, that the several secretaries and other officers of the said board shall also take and subscribe before the said board such oath of secresy, and for the execution of the duties of their respective stations, as the said board shall direct.

VIII. And for obviating any doubt which might otherwise arise how far the office or appointment of a commissioner of the said board for the affairs of India by virtue of this Act, or of the chief secretary to the said board, be within any of the provisions contained in an Act of the sixth year of the reign of Queen Anne, intituled "An Act for the security of her Majesty's "person and government and of the succession to the crown of Great Britain "in the Protestant line," or how far the appointment of any such commissioner or secretary, being a member or members of the House of Commons, shall vacate his or their seat or seats in that house, be it further enacted and declared, that the said respective offices, places or appointments of a commissioner or chief secretary of the said board for the affairs of India to be made under the authority of this Act shall not be deemed or taken to be within the intent or purview of the said Act of the sixth year of Queen Anne, whereby to disqualify any such commissioner or chief secretary from being elected or sitting or voting as a member of the House of Commons; nor shall the appointment of any such commissioner, not having any special salary annexed to such appointment, or the said chief secretary, if a member or members of the House of Commons, vacate his or their seat or seats in the said house, any thing contained in the said Act of the sixth year of Queen Anne or in any other Act to the contrary notwithstanding.

6 Ann. c. 41.

Appointments of commissioner or chief secretary not to disqualify from being elected to Parliament, &c.

Board to superintend all concerns relating to the civil or military government or revenues in the East Indies.

IX. And be it further enacted, that the said board of commissioners shall by force and virtue of this Act have and be invested with full power and authority to superintend, direct and controul all acts, operations and concerns which in anywise relate to or concern the civil or military government or revenues of the said territories and acquisitions in the East Indies, subject nevertheless to such directions, rules, regulations and restrictions, and to such appropriations of the said revenues, as are by this Act made, provided or established, and not otherwise or in any other manner, any former Act or Acts to the contrary notwithstanding.

Commissioners or their officers to have access to the books of

X. And be it further enacted, that the said commissioners or any of them, or their chief secretary, or any other of the officers of the said board, by the order and authority of the said board, shall have free access to the books, papers, letters of correspondence, evidences and other records of the said

the company, &c.

company, and be assisted by the proper officers of the said company in their searches for the same, and furnished by and at the expence of the said company with copies or extracts of so many or such parts thereof respectively as the said board shall require.

Court of directors to deliver to the board copies of all proceedings at courts of proprietors or directors, and of dispatches, &c. received relating to the civil or military government or revenues.

XI. And be it further enacted, that the court of directors of the said company for the time being shall and they are hereby required from time to time to deliver to the said board copies of all minutes, orders, resolutions and proceedings of all courts of proprietors, general or special, and of all courts of directors, within eight days after the holding of such courts respectively, and also copies of all letters, advices and dispatches which shall at any time or times be received by the said court of directors, or any committee of directors, from the East Indies, or from any other of their settlements or factories within the limits of their exclusive trade, or from any of the servants of the said united company stationed at Saint Helena, Bussora, Suez, Aleppo or other parts beyond the seas, in anywise relating to or concerning the civil or military government or the revenues of the said territories and acquisitions in India, immediately after the arrival and receipt thereof.

Orders relating to civil or military government or revenues to be submitted to the consideration of the board, who may alter the same, &c.

XII. And be it further enacted, that no orders or instructions whatever relating to the civil or military government or revenues of the said territorial acquisitions in India shall be at any time sent or given to any of the governments or settlements in India by the court of directors of the said united company, or by any committee of the said directors, until the same shall have been submitted to the consideration of and approved by the said board, and for that purpose that copies of all orders and instructions which the said court of directors or any committee of the said directors shall propose to be sent to India shall be by them previously laid before the said board; and that within the space of fourteen days after the receipt of such proposed dispatches the said board shall either return the same to the said court of directors or committee of directors, with their approbation thereof certified under the hand of the chief secretary to the said board, by the order of the said board, or if the said board shall disapprove, alter or vary in substance any of such proposed orders or instructions, in every such case the said board shall give to the said directors in writing under the hand of the chief secretary of the said board, by order of the said board, their reasons at large in respect thereof, together with their instructions to the said directors in relation thereto; and that the said directors shall and they are hereby required forthwith to dispatch and send the letters, orders and instructions in the form approved by the said board to the proper governments or officers in India or other limits without further delay, unless on any representation made to them by the said directors the said board shall order any alterations

to be made therein; and that the directors of the said company for the time being shall and are hereby required to pay obedience to and shall be governed and bound by such orders and instructions as they shall from time to time receive from the said board of commissioners touching or concerning the civil and military government of the said territories and acquisitions and the revenues of the same, according to the tenor and true intent of this Act.

Directors may make representations touching orders altered or disapproved by the board.

XIII. PROVIDED always, and be it further enacted, that nothing herein contained shall extend or be construed to extend to restrict or prohibit the said directors from expressing by representation in writing to the said board such remarks, observations or explanations as shall occur or they shall think fit touching or concerning any letters, orders or instructions which shall have been varied in substance or disapproved by the said board; and that the said board shall and they are hereby required to take every such representation and the several matters therein contained or alledged into their consideration, and to give such further orders or instructions thereupon as they shall think fit and expedient, which orders or instructions shall be final and conclusive upon the said directors.

Board not to nominate any of the servants of the company.

XIV. PROVIDED also, and be it further enacted and declared, that nothing in this Act contained shall extend to give to the said board of commissioners the power of nominating or appointing any of the servants of the said united company, any thing herein contained to the contrary notwithstanding.

If the directors neglect to frame dispatches beyond 14 days after requisition, the board may prepare instructions, and the directors shall forward them to India.

XV. AND be it further enacted, that whenever the court of directors of the said united company shall neglect to frame and to transmit to the said board dispatches on any subject connected with the civil or military government of the said territories and acquisitions or with the revenues thereof beyond the space of fourteen days after requisition made to them by order of the said board, it shall and may be lawful to and for the said board to prepare and send to the said directors (without waiting for the receipt of the copies of dispatches intended to be sent by the said directors) any orders or instructions for any of the governments or presidencies in India concerning the civil or military government of the said territories or the revenues thereof, and the said directors shall and they are hereby required to transmit dispatches, according to the tenor of the said orders and instructions so transmitted to them by the said board, unto the respective governments and presidencies in India, unless on any representation made by the said directors to the said board touching such orders or instructions the said board shall direct any alteration to be made in the same, which directions the said court of directors shall in such case be bound to conform to.

Board only to issue orders or alter

XVI. PROVIDED always, and be it further enacted, that nothing in this Act contained shall extend or be construed to extend to give to the said board of

dispatches relating to the civil or military government or the revenues, and if the directors think that orders issued do not relate to them, they may petition his Majesty in council.

commissioners any power or authority to issue or send any orders or instructions which do not relate to points connected with the civil or military government or revenues of the British territories or possessions in India, nor to expunge, vary or alter any dispatches proposed by the said court of directors as aforesaid which do not relate to the said government or revenues; and that if the said board shall send any orders or instructions to the said court of directors, to be by them transmitted, which in the opinion of the said court of directors shall relate to points not connected with the said civil or military government or revenues, then and on any such occasion it shall be lawful for the said court of directors to apply by petition to his Majesty in council touching the same, and his Majesty in council shall decide how far the same be or be not connected with the civil or military government and revenues of the said territories and possessions in India, which decision shall be final and conclusive.

Board not to direct the increase of established salaries unless proposed by the directors and laid before Parliament;

XVII. Provided also, and be it further enacted, that it shall not be lawful for the said board to give or cause to be given any directions ordering or authorising, by any dispatches to be sent to India, the increase of the established salaries, allowances or emoluments of any governor general, governor or president, or member of council, of any of the presidencies and settlements there, or of any other officer in the service of the said company, beyond the amount to which the same now stand fixed by the orders which have been sent to India, unless such increase shall be specified and contained in some dispatch proposed by the said court of directors to be sent to India and transmitted by them to the said board for their approbation, and unless an account of the actual salaries, allowances and emoluments of such governor general, governor or president, or member of council or other officer respectively, and of the increase proposed to be made therein, with the reasons for such increase, shall have been laid before both Houses of Parliament thirty days before such dispatch shall be sent.

nor to direct any gratuity but such as shall be proposed by the directors, &c.

XVIII. Provided also, and be it further enacted, that it shall not be lawful for the said board to give or cause to be given any direction for the payment of any extraordinary allowance or gratuity from the said revenues to any person on account of services performed in India, or on any other account whatever, to any greater amount or to any other person than shall be specified and contained in some dispatch proposed by the said court of directors to be sent to India and transmitted by them to the said board for their approbation, and that in every case where any such directions shall be so given a distinct account of all such allowances or gratuities shall be added to the next list of establishments laid before Parliament by the said court of directors.

XIX. PROVIDED also, and be it further enacted, that if the said board of commissioners shall be of opinion that the subject matter of any of their deliberations concerning the levying war or making peace, or treating or negociating with any of the native princes or states in India, intended to be communicated in orders to any of the governments or presidencies in India, shall be of a nature to require secrecy, it shall and may be lawful for the said board to send their orders and instructions to the secret committee of the said court of directors, to be appointed as is by this Act directed, who shall thereupon, without disclosing the same, transmit their orders and dispatches, according to the tenor of the said orders and instructions of the said board, to the respective governments and presidencies in India, and that the said governments and presidencies shall be bound to pay a faithful obedience thereto in like manner as if such orders and instructions had been sent to them by the said court of directors.

Board may send orders to the secret committee of directors, who shall transmit the same to India.

XX. AND be it further enacted, that the said court of directors shall from time to time appoint a secret committee, to consist of any number not exceeding three of the said directors, for the particular purposes in this Act specified, which said directors so appointed shall, before they or any of them shall act in the execution of the powers and trusts hereby reposed in them, take an oath of the tenor following; (that is to say,) [1]

Directors to appoint a secret committee, who shall take the following oath.

* * * * * * * * *

Which said oath shall and may be administered by the several and respective members of the said secret committee to each other, and being so by them taken and subscribed, the same shall be recorded by the secretary of the said court of directors for the time being amongst the acts of the said court.

XXI. AND be it further enacted, that if the said secret committee in the execution of their said powers and trusts shall find it necessary to employ any person in transcribing or preparing any secret dispatches, orders or instructions required to be transmitted by them to India under the direction of this Act, the said dispatches, orders and instructions shall be transcribed and prepared either by the secretary of the court of directors for the time being or by the officer called the examiner of Indian correspondence for the time being, and by no other person or persons, unless with the approbation and consent of the said board of commissioners for the affairs of India for that purpose first had and obtained; and that as well the said secretary and examiner as every other person who shall be intrusted with the transcribing or preparing any of such dispatches, orders or instructions shall, before they respectively enter upon that

Dispatches of the secret committee to be prepared only by the secretary or examiner of Indian correspondence, who shall take an oath of secrecy.

[1 Another oath substituted, 53 Geo. 3., c. 155., s. 74.]

duty, take and subscribe before any of the members of the said secret committee an oath of secrecy as near unto the tenor and form of the oath herein-before provided and directed to be taken by the members of the said secret committee as the case will admit; and the members of the said committee or any two of them are hereby authorized and required to frame and administer such oath accordingly, and to attest the taking and subscribing of the same by the said secretary and examiner and all other persons who shall be employed by them as aforesaid, and to cause the same to be recorded amongst the acts of the said court of directors.

Presidencies in India may send dispatches to the secret committee, who shall deliver them to the board.

XXII. Provided also, and be it further enacted, that when any of the governments or presidencies in India shall be of opinion that any of their dispatches to Great Britain concerning the government of the said territories and acquisitions, or the levying war or making peace, or negotiations or treaties with any of the native princes or states of India, shall be of a nature to require the same to be kept secret, it shall be lawful for the said governments or presidencies respectively to address their dispatches requiring such secrecy under cover, sealed with their seals, unto the said secret committee of directors of the said company for the inspection of such committee, and that immediately upon the arrival of such dispatches so addressed the said secret committee of directors shall deliver the same or copies thereof to the said board.

Orders of the directors touching the civil or military government or the revenues, after approbation by the board, not revocable by the proprietors.

XXIII. And be it further enacted, that no order or resolution of the court of directors of the said company touching or concerning the civil or military Government or revenues of the said territories and acquisitions in India, after the same shall have received the approbation of the board of commissioners for the affairs of India, shall be liable to be rescinded, suspended, revoked or varied by any general court of proprietors of the said company.

Governments of the presidencies vested in the governors and three counsellors respectively.

XXIV. And be it further enacted, that the whole civil and military government of the presidency of Fort William in Bengal, and also the ordering, management and government of all the territorial acquisitions and revenues in the kingdoms or provinces of Bengal, Bahar and Orissa, shall be and are hereby vested in a governor general and three counsellors of and for the said presidency, subject to such rules, regulations and restrictions as are made, provided or established in that behalf in this Act or in any other Act or Acts now in force, and not by this Act repealed or altered; and that the whole civil and military government of the presidency of Fort Saint George on the coast of Coromandel, and the ordering, management and government of all the territorial acquisitions and revenues on the said coast, and also so much and

such parts of the territories and possessions on the coast of Orissa, with the revenues of the same, as have been and now are under the administration of the government or presidency of Fort Saint George, shall be and are hereby vested in a governor and three counsellors of and for the said presidency of Fort Saint George, subject to such rules, regulations and restrictions as aforesaid; and that the whole civil and military government of the presidency and island of Bombay on the coast of Malabar, and the ordering, management and government of all the territorial acquisitions and revenues on the said coast of Malabar, shall be and are hereby vested in a governor and three counsellors of and for the said presidency and island of Bombay, subject as aforesaid; and the said governors and councils of the said presidencies of Fort Saint George and Bombay respectively, being also subject to the superintendance and controul of the said governor general in council, in manner by this Act provided or directed in that behalf, any Act or Acts to the contrary notwithstanding.

Vacancies of governors, &c. to be filled up by the directors.

XXV. And be it further enacted, that all vacancies happening in the office of governor general of Fort William in Bengal, or of any of the members of the council there, or of governor of either of the company's presidencies or settlements of Fort Saint George or Bombay, or of any of the members of the council of the same respectively, or of governor of the forts and garrisons at Fort William, Fort Saint George or Bombay, or of commander in chief of all the forces in India, or of any provincial commander in chief of the forces there, all and every of such vacancies shall be filled up and supplied by the court of directors of the said united company, the vacancies of any of the said members of council being always supplied from amongst the list of senior merchants of the said company, who shall have respectively resided twelve years in India in their service, and not otherwise, except as is herein-after otherwise provided.

If the directors neglect to fill up vacancies, his Majesty may supply them.

XXVI. Provided always, and be it further enacted, that when and so often as the said court of directors shall neglect for the space of two calendar months, to be computed from the day whereon the notification of the vacancy of any office or employment in India in the appointment of the said court of directors shall have been received by the said court, to supply such vacancy, then and in every such case it shall be lawful for his Majesty, his heirs and successors, to constitute and appoint, by writing under his or their royal sign manual (under the same restrictions and regulations as are herein-before provided with respect to the nominations and appointments made by the said court of directors), such person to supply such vacancy as his Majesty, his heirs and successors, shall think proper; and that every person so constituted and appointed shall have and be invested with the same powers, privileges and authorities as if he or they had been nominated and appointed by the

said court of directors, and shall be subject to recall only by the King's Majesty, his heirs or successors, any thing herein contained to the contrary notwithstanding.

Directors may appoint persons provisionally to supply vacancies.

XXVII. And be it further enacted, that it shall be lawful for the said court of directors to appoint any person or persons provisionally to succeed to any of the offices aforesaid for supplying any vacancy or vacancies therein, when the same shall happen by the death or resignation of the person or persons holding the same office or offices respectively, or on his or their departure from India, or on any event or contingency expressed in any such provisional appointment or appointments to the same respectively, and such appointments again to revoke, but that no person so appointed to succeed provisionally to any of the said offices shall be entitled to any authority, salary or emolument appertaining thereto, until he shall be in the actual possession of such office, any Act or statute to the contrary notwithstanding.

* * * * * * * * *

How vacancies are to be supplied when no successors are on the spot, &c.

XXIX. And be it further enacted, that if any vacancy shall happen in the office of governor general of Fort William or of governor of Fort Saint George or Bombay respectively, when no provisional or other successor shall be upon the spot to supply such vacancy, then and in every such case the counsellor of the presidency wherein such vacancy shall happen, next in rank to the said governor general or governor respectively, shall hold and execute the said office of governor general or governor until a successor shall arrive, or until some other person on the spot shall be duly appointed thereto; and if the council board shall happen during that interval to become reduced to one only member besides the acting governor general or governor, then and in such case the person so acting as governor general or governor shall be and is hereby impowered to call to the council board such one of the senior merchants of the said company at such presidency where the vacancy shall occur as he shall think fit to be a temporary member of the said board, and that the person so called shall accordingly sit and act as a member of the said council, and shall have the same powers in all other respects as are given to persons appointed to the council board by the said court of directors, until the arrival of a successor or other appointment made to the office of governor general or governor respectively; and that every such acting governor general, governor and occasional counsellor shall during the time of their continuing to act as such respectively be entitled to receive the several emoluments and advantages appertaining to the said offices by them respectively supplied, such acting governor general and governor foregoing their salary and allowances of counsellor for the same period.

Next member

XXX. Provided always, and be it further enacted, that if at the time of

any vacancy happening in the office of governor general or of a governor of any of the said presidencies no eventual successor appointed under the authority of this Act shall be present upon the spot, any commander in chief, although he shall be then a member of the council of the presidency where such vacancy shall occur, shall not succeed to the temporary government of such presidency unless such commander in chief shall have been provisionally appointed to supply the same, but that the vacancy shall be supplied by the counsellor next in rank at the council board to such commander in chief, any thing herein contained to the contrary notwithstanding.

of council to commander in chief to succeed to the temporary government of a presidency, unless the commander in chief shall have been provisionally appointed.

XXXI. And be it further enacted, that if any vacancy shall happen of the office of a counsellor at either of the said presidencies when no person provisionally or otherwise appointed to succeed thereto shall be then resident on the spot, then and on every such occasion such vacancy shall be supplied, by and at the nomination or appointment of the governor general in council of Fort William or the governor in council of Fort Saint George or Bombay respectively, from amongst the senior merchants in the said company's service in India; and that the person or persons so nominated shall execute the said office and shall have the same powers in all respects as are given to persons appointed to the council board by the said court of directors, until a successor or successors shall arrive duly appointed by the said court of directors, and shall have and be entitled to the salary and other emoluments and advantages appertaining to the said office or offices during his or their continuance therein respectively.

Vacancy of counsellors when no successors are on the spot to be supplied by the governor in council from the senior merchants.

XXXII. And it be further enacted, that when the office of governor general and the office of commander in chief of all the forces in India shall not be vested in the same person, such commander in chief shall and may, if specially authorized for that purpose by the said court of directors, and not otherwise, be a member of the council of Fort William; and that when the offices of governor of Fort Saint George and commander in chief of the forces there shall be vested in different persons, or the offices of governor of Bombay and commander in chief of the forces in Bombay shall be vested in different persons, such respective commanders in chief shall and may, if specially authorized by the court of directors, and not otherwise, be a member of council at the said respective presidencies; and that when any commander in chief shall be appointed a member of any of the said councils, such commander shall have rank and precedence at the council board next to the governor general or governor of the same presidency; but no commander in chief shall be entitled to any salary or emolument in respect of his being a member of any of the said councils unless the same shall be specially granted by the court of directors of the said company.

The commander in chief in India, when not governor general, may, by the authority of the directors, be the second member of the council of Fort William: The commander in chief at Fort Saint George or Bombay, when not governor, may be the second member of the council there.

XXXIII. Provided always, and be it further enacted, that when the

The com-

mander in chief in India, not being governor general, while resident at Fort Saint George or Bombay shall be a member of the council there.

commander in chief of all the forces in India (not being likewise governor general) shall happen to be resident at either of the presidencies of Fort Saint George or Bombay, the said commander in chief shall from the time of his arrival and during his continuance at such presidency be a member of the council of such presidency, and during that period the provincial commander in chief of the forces of the same presidency, if he shall be a member of the council thereof, shall and may continue to sit and deliberate, but shall not have any voice at the council board.

If any member shall be incapable of attending, the governor of the presidency may call to the council a provisional successor, &c.

XXXIV. And be it further enacted, that if any of the members of the council of either of the said presidencies shall by any infirmity or otherwise be rendered incapable of acting or of attending to act as such, or if any of such members shall be absent from the presidency, and the governor general or either of the said governors shall be desirous of having the advice of a full council upon any urgent business, the governor general or such governors respectively shall by virtue of this Act have full power and authority to call any provisional successor appointed then on the spot, or there being none such on the spot, then any senior merchant on the spot, to assist at the council board for that turn, but that such provisional successor or other person shall not be entitled to any salary or other emolument in respect thereof, nor shall his acting as an occasional member of council in manner aforesaid deprive him of any office or employment he before enjoyed.

His Majesty, by sign manual, countersigned by the president of the board, may remove any officer or servant of the company in India.

XXXV. And be it further enacted, that it shall and may be lawful to and for the King's Majesty, his heirs and successors, by any writing or instrument under his or their sign manual, countersigned by the president of the board of commissioners for the affairs of India, to remove or recall any person or persons holding any office, employment or commission, civil or military, under the said united company in India for the time being, and to vacate and make void all or every or any appointment or appointments, commission or commissions, of any person or persons to any such offices or employments; and that all and every the powers and authorities of the respective persons so removed, recalled, or whose appointment or commission shall be vacated, shall cease or determine at or from such respective time or times as in the said writing or writings shall be expressed and specified in that behalf: Provided always, that a duplicate or copy of every such writing or instrument under his Majesty's sign manual, attested by the said president for the time being, shall, within eight days after the same shall be signed by his Majesty, his heirs or successors, be transmitted or delivered to the chairman or deputy chairman for the time being of the said company, to the intent that the court of directors of the said company may be apprized thereof.

Act not to

XXXVI. Provided always, and be it further enacted, that nothing in this

Act contained shall extend or be construed to extend to preclude or take away the power of the court of directors of the said company from removing or recalling any of the officers or servants of the said company, but that the said court shall and may at all times have full liberty to remove, recall or dismiss any of such officers or servants at their will and pleasure, in the like manner as if this Act had not been made, any governor general, governor or commander in chief appointed by his Majesty, his heirs or successors, through the default of appointment by the said court of directors, always excepted, any thing herein contained to the contrary notwithstanding.

preclude the directors from recalling their officers or servants.

XXXVII. And be it further enacted, that the departure from India of any governor general, governor, member of council or commander in chief, with intent to return to Europe, shall be deemed in law a resignation and avoidance of his office or employment, and that the arrival in any part of Europe of any such governor general, governor, member of council or commander in chief shall be a sufficient indication of such intent; and that no act or declaration of any governor general or governor or member of council during his continuance in the presidency whereof he was so governor general, governor or counsellor, except by some deed or instrument in writing, under hand and seal, delivered to the secretary for the public department of the same presidency, in order to its being recorded, shall be deemed or held as a resignation or surrender of his said office; and that the salary and other allowances of any such governor general or other officers respectively shall cease from the day of such his departure, resignation or surrender; and that if any such governor general or any other officer whatever in the service of the said company shall quit or leave the presidency or settlement to which he shall belong, other than in the known actual service of the said company, the salary and allowances appertaining to his office shall not be paid or payable during his absence to any agent or other person for his use, and in the event of his not returning back to his station at such presidency or settlement, or of his coming to Europe, his salary and allowances shall be deemed to have ceased from the day of his quitting such presidency or settlement, any law or usage to the contrary notwithstanding.

Departure from India of any governor general, &c. with intent to return to Europe to be deemed a resignation of employment, &c.

While in the presidency no resignation of a governor general, &c. to be valid except delivered in writing to the secretary.

Regulations respecting salaries.

XXXVIII. And be it further enacted, that the governor general and counsellors of Fort William, and the several governors and counsellors of Fort Saint George and Bombay, shall at their respective council boards proceed in the first place to the consideration of such matters or questions as shall be proposed by the governor general or by the governors of the said presidencies respectively, and as often as any matter or question shall be propounded by any of the said counsellors it shall be competent to the said governor general or governor respectively to postpone or adjourn the discussion thereof to a

Councils in the first place to consider matters proposed by the governor, who may postpone any matters proposed by counsellors.

future day, provided that no such adjournment shall exceed forty-eight hours, nor shall the matter or question so proposed be adjourned more than twice without the consent of the counsellor who proposed the same.

Proceedings to be expressed to be made by the governor general in council, or governor in council, and to be signed by the secretary.

XXXIX. And be it further enacted, that all orders and other proceedings of the governor general and council of Fort William shall be expressed to be made by the governor general in council, and that all orders and other proceedings of the governors and council of Fort Saint George and Bombay respectively shall be expressed to be made by the governor in council and not otherwise; and that the several orders and proceedings of all the said presidencies shall previous to their being published or put in execution be signed by the chief secretary to the council of the presidency by the authority of the governor general in council or governor in council, as the case may be.

Governor general in council at Fort William impowered to superintend the other presidencies.

XL. And be it further enacted, that the governor general in council at Fort William shall have and be invested by virtue of this Act with full power and authority to superintend, controul and direct the several governments and presidencies of Fort Saint George and Bombay, and all other governments erected or to be erected by the said united company within the limits of their said exclusive trade, in all such points as shall relate to any negociations or transactions with the country powers or states, or levying war or making peace, or the collection or application of the revenues of the said acquisitions and territories in India, or to the forces employed at any of such presidencies or governments, or to the civil or military government of the said presidencies, acquisitions or territories, or any of them.

The other presidencies to obey the orders of the governor general in council of Fort William in all cases, if not repugnant to instructions from England.

XLI. And in order to prevent the embarrassment and difficulty which may otherwise arise from any doubt whether the orders or instructions of the governor general in council of Fort William relate to other points than those aforesaid, be it further enacted, that notwithstanding any doubt which may be entertained by the said presidencies or governments to whom such orders or instructions shall be given respecting the power of the governor general in council to give such orders, yet the said presidencies or governments shall be bound to obey such orders and directions of the said governor general in council in all cases whatever, except only where they shall have received positive orders and instructions from the said court of directors, or from the secret committee of directors by the authority of the said board of commissioners for the affairs of India, repugnant to the orders and instructions of the said governor general in council, and not known to the said governor general and council at the time of dispatching their orders and instructions as aforesaid; and the said governor general in council shall at the time of transmitting all such orders and instructions transmit therewith the dates of and

Governor general in council to send

the times of receiving the last dispatches, orders and instructions which they have received from the court of directors, or from the said secret committee by the direction of the said board of commissioners, on any of the points contained therein; and the said presidencies, governments and settlements in all cases where they have received any orders from the said court of directors, or from the said secret committee by the direction of the board of commissioners as aforesaid, which they shall deem repugnant to the orders of the said governor general in council of Fort William, and which were not known to the said governor general and council at the time of dispatching their orders and instructions as aforesaid, shall forthwith transmit copies of the same, together with an account of all instructions or orders made by them in consequence thereof, to the governor general in council of Fort William, who shall after the receipt of the same dispatch such further orders and instructions to the said presidencies and governments or settlements as the said governor general in council may judge necessary thereupon.

dates, &c. of dispatches from England on points contained in instructions to presidencies, &c. Presidencies to transmit to him copies of any dispatches which they deem repugnant to his instructions.

XLII. And forasmuch as to pursue schemes of conquest and extension of dominion in India are measures repugnant to the wish, the honour and policy of this nation: Be it further enacted, that it shall not be lawful for the governor general in council of Fort William aforesaid, without the express command and authority of the said court of directors, or of the said secret committee by the authority of the said board of commissioners for the affairs of India, in any case (except where hostilities have actually been commenced or preparations actually made for the commencement of hostilities against the British nation in India, or against some of the princes or states dependant thereon, or whose territories the said united company shall be at such time engaged by any subsisting treaty to defend or guarantee) either to declare war or commence hostilities or enter into any treaty for making war against any of the country princes or states in India, or any treaty for guaranteeing the possessions of any country princes or states; and that in any such case it shall not be lawful for the said governor general and council to declare war or to commence hostilities or to enter into any treaty for making war against any other prince or state than such as shall be actually committing hostilities or making preparations as aforesaid, or to make such treaty for guaranteeing the possessions of any prince or state, but upon the consideration of such prince or state actually engaging to assist the company against such hostilities commenced or preparations made as aforesaid; and in all cases where hostilities shall be commenced or treaty made, the said governor general and council shall, by the most expeditious means they can devise, communicate the same unto the said court of directors or to the said secret committee, together with a full state of the information and intelligence upon which they shall have

War not to be declared, &c. by the governor general in council of Fort William without the command of the directors, &c. except preparations for hostilities shall be made against British, &c.

Communication of commencement of hostilities, &c. to be made to the directors, &c.

commenced such hostilities or made such treaties, and their motives and reasons for the same at large.

Governments of Fort St. George and Bombay, &c. not to declare war, &c but by orders from Fort William or the directors, &c.

XLIII. And be it further enacted, that it shall not be lawful for the governors and counsellors of Fort Saint George and Bombay or of any other subordinate settlement to make or issue any order for commencing hostilities or levying war, or to negociate or conclude any treaty of peace or other treaty with any Indian prince or state (except in cases of sudden emergency or imminent danger, when it shall appear dangerous to postpone such hostilities or treaty), unless in pursuance of express orders from the said governor general in council of Fort William aforesaid, or from the said court of directors, or from the said secret committee by the authority of the said board of commissioners for the affairs of India; and every such treaty shall, if possible, contain a clause for subjecting the same to the ratification or rejection of the governor general in council of Fort William aforesaid; and the said governors and counsellors and other officers of the said presidencies of Fort Saint George and Bombay or other settlements respectively are hereby required to pay and yield obedience to all such orders as they shall from time to time respectively receive from the said governor general in council of Fort William aforesaid concerning the matters aforesaid; and that all and singular the said governors, counsellors and other officers who shall refuse or wilfully neglect or forbear to pay obedience to such orders and instructions as they shall receive from the said governor general in council of Fort William as aforesaid shall be liable to be removed, dismissed or suspended from the exercise of their respective offices or powers by order of the said governor general in council of Fort William and be sent to England, and be subject to such further pains and penalties as are or shall be provided by law in that behalf.

Penalty on governors, &c. for neglect of orders from Fort William.

Governments of Fort St. George and Bombay, &c. to send to Fort William copies of all their orders, &c.

XLIV. And be it further enacted, that the governors and counsellors of the said presidencies of Fort Saint George and Bombay respectively for the time being, and the governors and counsellors or other chief officer or officers of and belonging to any other British settlement in India, shall and they are hereby respectively required constantly and diligently to transmit to the said governor general in council at Fort William aforesaid true and exact copies of all orders, resolutions and acts in council of their respective governments, presidencies and councils, and also advice and intelligence of all transactions and matters which shall come to their knowledge, material to be communicated to the governor general in council of Fort William aforesaid, or which the said governor general in council shall from time to time require.

Governor general of Fort William may issue

XLV. And be it further enacted, that it shall and may be lawful for the governor general of Fort William aforesaid for the time being to issue his warrant under his hand and seal, directed to such peace officers and other

persons as he shall think fit, for securing and detaining in custody any person or persons suspected of carrying on, mediately or immediately, any illicit correspondence dangerous to the peace or safety of any of the British settlements or possessions in India with any of the princes, rajahs or zemindars, or any other person or persons having authority in India, or with the commanders, governors or presidents of any factories established in the East Indies by any European power, or any correspondence contrary to the rules and orders of the said company or of the governor general in council of Fort William aforesaid; and if upon examination taken upon oath in writing of any credible witness or witnesses before the governor general in council of Fort William aforesaid there shall appear reasonable grounds for the charge, the said governor general shall be and is hereby authorized and impowered to commit such person or persons so suspected or accused to safe custody, and shall within a reasonable time, not exceeding five days, cause to be delivered to him or them a copy of the charge or accusation on which he or they shall have been committed; and that the party or parties accused shall be permitted to deliver in his or their defence in writing, together with a list of such witnesses as he or they shall desire to be examined in support thereof; and that such witnesses and also the witness or witnesses in support of the charge shall be examined and cross-examined on oath in the presence of the party accused, and their depositions and examinations taken down in writing; and if, notwithstanding such defence, there shall appear to the said governor general in council reasonable grounds for the charge or accusation and for continuing the confinement, the party or parties accused shall remain in custody until he or they shall be brought to trial in India or sent to England for that purpose; and that all such examinations and proceedings or attested copies thereof, under the seal of the Supreme Court of Judicature at Fort William or of one of the mayor's courts, shall be transmitted to the said court of directors by the first dispatches, in order to their being produced in evidence on the trial of the parties in the event of their being sent for trial to Great Britain; and in case such person or persons is or are intended to be sent to England, the said governor general shall and he is hereby required to cause such person or persons to be sent to England by the first convenient opportunity, unless such person or persons shall be disabled by illness from undertaking the voyage, in which case he or they shall be sent as soon as his or their state of health will safely admit thereof; and that the examinations and proceedings so transmitted as aforesaid shall be admitted and received as evidence in all courts of law, subject to any just exceptions to the competency of the said witnesses.

Warrants for securing persons suspected of dangerous correspondence.

Proceedings to be had where reasonable grounds for the charge shall appear against such persons.

XLVI. And be it further enacted, that the several governors or governors in council of Fort Saint George and Bombay shall have the like powers,

Governors of Fort St. George and

Bombay to have the like powers with respect to suspected persons as the governor general.

under and subject to the same regulations and restrictions, to secure and detain persons suspected of any such illicit correspondence as aforesaid within their respective presidencies and settlements, and of sending them to England for trial, as are hereby given to the said governor general or governor general in council of Fort William respectively.

Governor general or governors may order measures proposed in council, about which they differ from the other members, to be adopted or suspended, &c. without the consent of the council;

XLVII. And whereas it will tend greatly to the strength and security of the British possessions in India, and give energy, vigour and dispatch to the measures and proceedings of the executive government within the respective presidencies, if the governor general of Fort William in Bengal and the several governors of Fort Saint George and Bombay were vested with a discretionary power of acting without the concurrence of their respective councils, or forbearing to act, according to their opinions, in cases of high importance, and essentially affecting the public interest and welfare, thereby subjecting themselves personally to answer to their country for so acting or forbearing to act: Be it enacted, that when and so often as any measure or question shall be proposed or agitated in the Supreme Council at Fort William in Bengal or in either of the councils of Fort Saint George and Bombay, whereby the interests of the said united company or the safety or tranquillity of the British possessions in India or any part thereof are or may, in the judgement of the governor general or of the said governors respectively, be essentially concerned or affected, and the said governor general or such governors respectively shall be of opinion that it will be expedient either that the measures so proposed or agitated ought to be adopted or carried into execution, or that the same ought to be suspended or wholly rejected, and the several other members of such council then present shall differ in and dissent from such opinion, the said governor general or such governor and the other members of the council shall and they are hereby directed forthwith mutually to exchange with and communicate in council to each other, in writing under their respective hands (to be recorded at large on their secret consultations), the respective grounds and reasons of their respective opinions; and if after considering the same the said governor general or such governor respectively, and the other members of the said council, shall severally retain their opinions, it shall and may be lawful to and for the said governor general in the Supreme Council of Fort William, or either of the said governors in their respective councils, to make and declare any order (to be signed and subscribed by the said governor general or by the governor making the same) for suspending or rejecting the measure or question so proposed or agitated, in part or in the whole, or to make and declare such order and resolution for adopting and carrying the measure so proposed or agitated into execution, as the said governor general

or such governors in their respective councils shall think fit and expedient; which said last-mentioned order and resolution so made and declared shall be signed as well by the said governor general or the governor so making and declaring the same as by all the other members of the council then present, and shall, by force and virtue of this Act, be as effectual and valid to all intents and purposes as if all the said other members had advised the same or concurred therein; and the said members of council, and all officers civil and military, and all other persons concerned, shall be and they are hereby commanded, authorized and enjoined to be obedient thereto, and to be aiding and assisting in their respective stations in the carrying the same into execution.

the governor making the order to be alone responsible for the same

XLVIII. And be it further enacted, that the governor general or governor who shall declare and command any such order or resolution to be made and recorded without the assent or concurrence of any of the other members of council shall alone be held responsible for the same and the consequences thereof.

but not to make any order which could not have been made with the consent of the council.

XLIX. Provided always, and be it further enacted, that nothing in this Act contained shall extend or be construed to extend to give power to the said governor general of Fort William in Bengal, or to either of the said governors of Fort Saint George and Bombay respectively, to make or carry into execution any order or resolution which could not have been lawfully made and executed with the concurrence of the councils of the respective governments or presidencies, any thing herein contained to the contrary notwithstanding.

No person to act without the concurrence of the council, on whom the office of governor general or governor shall devolve by death, unless provisionally appointed, &c.

L. Provided also, and be it further enacted and declared, that nothing in this Act contained shall extend or be construed to extend to give any discretionary power of acting or forbearing to act without the concurrence of the other members of council unto any person on whom the said office of governor general or the said office of governor respectively shall happen to devolve by the death or resignation of any governor general or governor for the time being respectively, or unto any deputy governor general, unless such person shall have been provisionally appointed to succeed to such respective office by the said court of directors, or unless and until such person shall have been or shall be confirmed in the said office; and that in the mean time all orders, resolutions and other acts and things in such presidency shall be determined by the voice of the major part in number of the governor general and counsellors or governor and counsellors present at the making or doing thereof, such governor general or governor having on any equality of voices a casting vote, and not otherwise or in any other manner, any thing in this Act contained to the contrary notwithstanding.

Governor general, &c. not to carry into execution any order against the opinion of the council in certain cases

LI. PROVIDED also, and be it further enacted, that nothing herein contained shall be construed to give power or authority to the governor general of Fort William in Bengal, or either of the governors of Fort Saint George and Bombay respectively, to make or carry into execution any order or resolution against the opinion or concurrence of the counsellors of their respective governments, in any matter which shall come under the consideration of the said governor general and governors in council respectively in their judicial capacity, or to make, repeal or suspend any general rule, order or regulation for the good order and civil government of the said united company's settlements, or to impose of his own authority any tax or duty within the said respective governments or presidencies.

The powers of the governor of either of the other presidencies, &c. vested in the governor general during his stay in the presidency.

LII. AND be it further enacted, that when the governor general of Fort William in Bengal for the time being shall find it expedient to visit the presidency of Fort Saint George or the presidency of Bombay, or any province or place in India, the powers and authorities of the governor or other chief officer or officers of such presidency, province or place shall from the time of the proclamation of the arrival of the said governor general therein be suspended (except with regard to judicial proceedings), and shall so continue to be suspended until other proclamation be made to the contrary by the order of the said governor general, or otherwise until the said governor general shall depart therefrom, and no longer; and that during that interval the powers and authorities of the said governor or other chief officer shall be vested in the said governor general, with liberty nevertheless for such g[illegible]r to sit and act as a member of the council of such presidency; and that t[illegible] governor general in council at either of the said presidencies of Fort S[illegible]orge and Bombay shall be invested with the powers and authorities [illegible]overnor in council of the same presidency or settlement respecti[illegible] also with the same ample powers and authorities as can or may be exercised by the governor general in council at Fort William by force and virtue of this Act.[1]

Governor general to nominate a vice president of Fort William to act there during his absence;

LIII. AND be it further enacted, that when and so often as the said governor general shall on any occasion be absent from his own government of Bengal, such one of the members of the council thereof as the said governor general shall nominate for that purpose shall be styled and act as vice president and deputy governor of Fort William, and that the government of the said presidency shall be exercised by such vice president or deputy and the other members or member of the said council in like manner and no further or otherwise than as the government of the said presidencies of Fort

[1] This section is virtually repealed by 3 & 4 Wm. IV, c. 85, s. 67.

Saint George and Bombay may be exercised by the governors in council there, subject nevertheless to the restrictions in this Act contained.

and while absent may issue orders to the officers and servants of the other presidencies, &c.

LIV. And be it further enacted, that if the said governor general during his absence from his own government of Bengal shall judge it necessary to issue any orders or directions to any of the said governments or presidencies in India, or to any of the officers or servants of the said company acting under the authority of any of the said presidencies, without previously communicating such orders or instructions to the said respective governments under the authority of which such officers or servants shall be acting, it shall and may be lawful for him to issue the same; and that the said respective governments or presidencies, and also such officers and servants, shall and they are hereby severally and respectively authorized and required to obey the same, and such orders and instructions shall be of the same force as if the same had been made by the said governor general in council at Fort William, but not of any greater or other force or validity; and that if such orders or directions shall be made by the said governor general of his own sole authority, or without the concurrence of the other members of council of either of the said presidencies of Fort Saint George and Bombay respectively, in that case the said governor general shall be alone held responsible for the same, in the like manner as for any orders or resolutions by him made in council at Fort William of his own sole authority, without the concurrence of the other members of the same council, according to the directions and true intent and meaning of this Act: Provided always, that such governor general shall and he is hereby required to transmit by the first opportunity to the governors and councils of the respective presidencies to which the officers or servants to whom any such orders or instructions shall be so sent to be executed shall belong, copies of such orders and instructions respectively, with his reasons or inducements for issuing the same, and also to transmit to the court of directors of the said company, by the first opportunity that shall or may occur, a copy of all orders and instructions by him so sent to any of the said governments, presidencies, officers or servants respectively, together with his reasons and inducements for sending or issuing the same.

transmitting copies thereof to governors, &c. of presidencies and court of directors.

Directors, with the approbation of the board, may suspend and again revive the powers of the governor general to act upon his own authority.

LV. Provided also, and be it further enacted, that it shall and may be lawful for the court of directors of the said company, with the approbation of the board of commissioners for the affairs of India, to suspend all or any of the powers hereby given to the governor general of Fort William to act upon his own sole authority at and for such time or times as they may judge expedient or necessary, and that the same shall be suspended accordingly from the time of the arrival of their orders for that purpose in India, and also for the said court of directors, with such approbation as aforesaid, to

revive the said powers when and as they shall think fit, any thing herein contained to the contrary notwithstanding.

* * * * * * * *

Regulations for filling up vacancies in the civil line.

LVII. And be it further enacted, that all vacancies happening in any of the offices, places or employments in the civil line of the company's service in India (being under the degree of counsellor) shall be from time to time filled up and supplied from amongst the civil servants of the said company belonging to the presidency wherein such vacancies shall respectively happen, subject only to the restrictions in this Act contained, and no otherwise; (that is to say,) that in the filling up and supplying such vacancies no office, place or employment the salary, perquisites and emoluments whereof shall exceed five hundred pounds per annum shall be conferred upon or granted to any of the said servants who shall not have been actually resident in India as a covenanted servant of the said company for the space of three years at the least in the whole antecedent to such vacancy; and if the salary, perquisites and emoluments of any office, place or employment shall exceed one thousand five hundred pounds per annum the same shall not be granted to or conferred upon any of the said servants who shall not have been actually resident in India in the said service for the space of six years at the least in the whole antecedent to such vacancy; and if the salary, perquisites and emoluments of any office, place or employment shall exceed three thousand pounds per annum the same shall not be granted to or conferred upon any of the said servants who shall not have been actually resident in India in the said company's service for the space of nine years at the least in the whole; and if the salary, perquisites and emoluments of any office, place or employment shall exceed four thousand pounds per annum the same shall not be granted to or conferred upon any of the said servants who shall not have been actually resident in India in the company's service for the space of twelve years at the least in the whole antecedent to such vacancy; and that all appointments, advancements and promotions which shall be made for supplying any such vacancies other than as aforesaid shall be null and void.

No person to hold two offices the salaries of which amount to more than the prescribed sum.

LVIII. And be it further enacted, that no person shall for the future be capable of taking in the civil line of the company's service two or more offices, places or employments, the joint amount of the salaries, perquisites and emoluments of which shall exceed in the whole the annual salary, perquisites and emoluments respectively herein-before in that behalf prescribed, any law or usage to the contrary notwithstanding.

Directors not to send out more persons than necessary

LIX. And be it further enacted, that it shall not be lawful for the court of directors of the said company to appoint or send out to India a greater number of persons in the capacity of cadets or writers, or in any other

capacity, than will be necessary, in addition to those already in India, to supply the proper complement of officers and servants contained in the said lists of their establishments, according to such returns of vacancies as the respective governments in India shall transmit from thence to the said court of directors.

to supply the complement of the establishment.

LX.[1] And be it further enacted, that no person shall be capable of acting or being appointed or sent to India in the capacity of writer or cadet whose age shall be under fifteen years or shall exceed twenty-two years, nor until the person proposed or intended to be so appointed shall have delivered to the said court of directors a certificate of his age under the hand of the minister of the parish in which he was baptized or keeper of the registry of baptism of such parish; and if no such registry can be found, an affidavit of that circumstance shall be made by the party himself, with his information and belief that his age is not under fifteen years and doth not exceed twenty-two years: Provided nevertheless, that the said restriction shall not extend to prevent the said court of directors from appointing any person to be a cadet who shall have been for the space of one year at least a commissioned officer in his Majesty's service, or in the militia or fencible men when embodied, and have been called into actual service, or from the company of cadets in the royal regiment of artillery, and whose age shall not exceed twenty-five years.

Writers and cadets to be of certain ages, &c.

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LXII. And be it further enacted, that the demanding or receiving any sum of money or other valuable thing as a gift or present or under colour thereof, whether it be for the use of the party receiving the same or for or pretended to be for the use of the said company or of any other person whatsoever, by any British subject holding or exercising any office or employment under his Majesty or the said united company in the East Indies, shall be deemed and taken to be extortion and a misdemeanor at law, and shall be proceeded against and punished as such under and by virtue of this Act, and the offender shall also forfeit to the King's Majesty, his heirs and successors, the whole gift or present so received or the full value thereof.

Receiving gifts to be deemed a misdemeanor.

LXIII. Provided always, and be it further enacted, that the court or jurisdiction before whom any such offence shall be tried shall have full power and authority to direct the said present or gift or any part thereof to be restored to the party who gave the same, or to order the whole or any part thereof, or of any fine which the court shall set on the offender, to be paid

The court may order gifts to be restored, or gifts or fines to be given to the prosecutors.

[1 So much of this section as enacts that no person shall be appointed or sent out to India as a writer after he has attained the age of 22 years, repealed, 7 Will. 4 & 1 Vict., c. 70, s. 4.]

or given to the prosecutor or informer, as such court in its discretion shall think fit.

Counsellors at law, &c. may take fees in their professions.

LXIV. PROVIDED always, and be it enacted, that nothing herein contained shall extend or be construed to extend to prohibit or prevent any person exercising the profession of counsellor at law, physician or surgeon, or any chaplain, from accepting, taking or receiving fees, gratuities or rewards (bonâ fide) in the way of his profession only.

Neglect to execute the orders of the directors, &c. to be deemed a misdemeanor;

LXV. AND be it further enacted, that the wilful disobeying or the wilfully omitting, forbearing or neglecting to execute the orders or instructions of the court of directors of the said company by any governor general, governor, president, counsellor or commander in chief, or by any other of the officers or servants of the said united company in the East Indies (unless in cases of necessity, the burthen of the proof of which necessity shall lie on the party so disobeying or omitting or forbearing to execute such orders and instructions as aforesaid), and every wilful breach of the trust and duty of any office or employment by any such governor general, governor, president, counsellor or commander in chief, or by any of the officers or servants of the said united company in the East Indies, shall be deemed and taken to be a misdemeanor at law, and shall or may be proceeded against and punished as such by virtue of this Act.

as also the making of any corrupt bargain for giving up or obtaining any employment in India.

LXVI. AND be it further enacted, that the making or entering into or being a party to any corrupt bargain or contract for the giving up or for obtaining or in any other manner touching or concerning the trust and duty of any office or employment under the crown or the said united company in the East Indies, by any British subject whomsoever there resident, shall be deemed and taken to be a misdemeanor at law, and shall be proceeded against and prosecuted as such by virtue of this Act.

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Company not to stay actions without the approbation of the board.

LXVIII. AND be it further enacted, that it shall not be lawful for the said united company or for any of their officers or servants, or for the court of directors of the said company, to discontinue, stay or compound or settle or agree any actions or suits at law or equity, now depending or hereafter to be commenced, before a final decree or judgment shall be obtained or given therein, unless by and with the approbation of the board of commissioners for the affairs of India for that purpose in writing first had and obtained; and that all compositions and agreements made for any of the purposes aforesaid by the court of directors of the said company, with the approbation of the said board, shall be valid and effectual in that behalf, any thing herein or in any other Act or Acts contained to the contrary notwithstanding.

Company not

LXIX. AND be it further enacted, that after sentence or judgement of any

court having competent jurisdiction, whether in Great Britain or in India, against any governor general, governor, president, counsellor or commander in chief, or against any of the said united company's servants, civil or military, for any debts or penalty due or belonging to the said united company, or for any extortion or other misdemeanor, it shall not be lawful for the said united company in any case whatever to release or compound such sentence or judgement, or to restore any servant or servants of the said company who shall have been removed or dismissed from his or their office or employment for or on account of misbehaviour by the sentence of any of the said courts.

to release sentences on servants or restore servants dismissed by sentences.

LXX. And be it further enacted, that no person who shall have held any civil or military station whatever in India in the service of the said united company, being under the rank or degree of a member of council or commander in chief of the forces, and who, having departed from India by leave of the governor general in council or governor in council, shall not return to India within the space of five years next after such departure, shall be entitled to any rank or restoration of office or be capable of again serving in India, either in the European or Native corps of troops or in the civil line of the company's service, unless in the case of any civil servant of the company it shall be proved to the satisfaction of the court of directors that such absence was occasioned by sickness or infirmity, or unless such person be permitted to return with his rank to India by a vote or resolution passed by way of ballot by three parts in four of the proprietors assembled in general court specially convened for that purpose, whereof eight days previous notice of the time and purpose of such meeting shall be given in the London Gazette, or unless in the case of any military officer it shall be proved to the satisfaction of the said court of directors and the board of commissioners for the affairs of India that such absence was occasioned by sickness or infirmity or some inevitable accident.

No person under the degree of a member of council or commander in chief, who shall not return to India within five years from his leave to depart, shall be entitled to rank, &c, or to serve again, except as herein provided.

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CXXXVII. And be it further enacted, that it shall not be lawful for any governor general or governor or any member of council of the said presidencies in India to be concerned in any trade or traffick whatever except on account of the said company, nor for any collector, supervisor or other person employed or concerned in the collection of the revenues or the administration of justice in the provinces of Bengal, Bahar and Orissa or either of them, or their agents or servants, or any person or persons in trust for them or any of them, to carry on or be concerned in or to have any dealings or transactions by way of traffick or trade at any place within any of the provinces in India or other parts, or to buy any goods and sell the same again or any part thereof at the place where he or they bought the same, or at any other place within the same

No governor general, &c. to trade except on account of the company.

province or any other such province or country respectively, except on account of the said company; nor shall it be lawful for any of the judges of the Supreme Court of Judicature to be concerned in any trade or traffick whatever; . . . . . .

No judge of Supreme Court to be concerned in any trade.

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How offences against this Act may be prosecuted, &c.

CXL. And be it further enacted, that all penalties, forfeitures, seizures, causes of seizure, crimes, misdemeanors and other offences, which shall arise or be incurred or made under or shall be committed against this Act, shall be sued for, prosecuted, examined, recovered and adjudged in any of his Majesty's courts of record at Westminster, or in the Supreme Court of Judicature at Fort William in Bengal, or in one of the mayor's courts at Madras or Bombay respectively, in manner following; (that is to say,) all such pecuniary penalties, and all forfeitures of ships, vessels, merchandize and goods, shall and may be sued for, condemned and recovered by action, bill, suit or information, wherein no essoin, protection, wager of law or more than one imparlance shall be granted or allowed; and all such seizures, whether of any person or of any ships, vessels, merchandizes and goods, and all causes of such seizure, shall be cognizable in such actions, suits or prosecutions as shall bring into question or relate to the lawfulness or regularity of any such seizure; and all such offences as by this Act are not made punishable by pecuniary penalties or by any forfeitures of goods, but by fine or imprisonment, or both, or are hereby created without providing any particular punishment, shall be prosecuted by indictment or information as misdemeanors for breach thereof, and shall be punished by fine or imprisonment, or both, at the discretion of the court in which such prosecution shall by virtue of this Act be begun and carried on; and if such prosecution for a misdemeanor shall be in any of the said courts in the East Indies, and the person or persons prosecuted shall be there convicted, it shall be lawful for such court to order, as part or for the whole of the punishment, any such person or persons to be sent and conveyed to Great Britain.

How actions shall be laid.

CXLI. And be it further enacted, that whenever any action, bill, suit, information or indictment shall be brought or prosecuted in any of his Majesty's courts of record at Westminster for any offence against this Act, whether for a penalty, forfeiture or misdemeanor, the offence shall be laid or alleged to have been committed in the city of London or county of Middlesex, at the option of the informer or prosecutor; and all actions, bills, suits, informations and indictments for any offence or offences against this Act, whether filed, brought, commenced or prosecuted for a penalty or forfeiture, or for a misdemeanor, in any of his Majesty's courts of record at Westminster, or in the said Supreme Court or any such mayor's court as aforesaid, shall be brought and prosecuted within six years next after the offence shall be

Limitation of actions, and process

committed, and a capias shall issue in the first process, and in the case of an offence hereby made punishable by any penalty or forfeiture such capias shall specify the sum of the penalty or forfeiture sued for, and the person or persons sued or prosecuted for such penalty shall on such capias give to the person or persons to whom such capias shall be directed sufficient bail or security, by natural-born subjects or denizens, for appearing in the court out of which such capias shall issue, at the day or return of such writ, to answer such suit or prosecution, and shall likewise at the time of such appearance give sufficient bail or security, by such persons as aforesaid, in the same court, to answer and pay all the forfeitures and penalties sued for, if he, she or they shall be convicted of such offence or offences, or to yield his, her or their body or bodies to prison; but if the prosecution shall be for any offence or offences against this Act punishable only as a misdemeanor, then the person or persons against whom such capias shall issue, being thereupon arrested, shall be imprisoned and bailable according to law as in other cases of misdemeanor.

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Charter of justice, dated 26th March 1774, recited.

CLVI. And whereas by the charter of justice under the great seal of Great Britain, bearing date the twenty-sixth day of March, in the fourteenth year of his present Majesty's reign, for establishing the Supreme Court of Judicature of Fort William in Bengal, his Majesty did grant, ordain, establish and appoint that the said Supreme Court of Judicature should be a Court of Admiralty, with power and authority to enquire, hear, try, examine and determine by the oaths of British subjects all treasons, murders, piracies, robberies, felonies, maimings, forestallings, extortions, trespasses, misdemeanors, offences, excesses and enormities and maritime causes whatsoever, according to the laws and customs of the Admiralty of England, done, perpetrated or committed upon the high seas, rivers, ports, creeks, harbours and places overflown within the ebbing and flowing of the sea and high water mark, within, about and throughout the provinces, countries or districts of Bengal, Bahar and Orissa and the territories or islands adjacent thereto and dependant thereon, the cognizance whereof doth belong to the jurisdiction of the Admiralty, as the same is used and exercised in that part of Great Britain called England: And whereas doubts have arisen how far the jurisdiction of the said Supreme Court in criminal matters is limited by the said charter to offences committed on the coasts of Bengal, Bahar and Orissa, territories or islands respectively, within the ebbing and flowing of the sea and high water mark: and inasmuch as it is essentially necessary that the Admiralty-jurisdiction of the said Supreme Court of Judicature should extend to crimes and offences committed on the high seas at large: Be it further enacted and declared, that the power and authority of the said court granted to them by

Power given by recited charter

to the Supreme Court of Judicature to extend to the high seas

the said charter of justice shall extend and be extended to the high seas, and that the said court shall by force and virtue of this Act have full power and authority to enquire, hear, try, examine and determine, by the oaths of honest and lawful men, being British subjects resident in the town of Calcutta, all treasons, murders, piracies, robberies, felonies, maimings, forestallings, extortions, trespasses, misdemeanors, offences, excesses and enormities, and maritime causes whatsoever, according to the laws and customs of the Admiralty of England, done, perpetrated or committed upon any of the high seas, and to fine, imprison, correct, punish, chastise and reform parties guilty and violators of the laws, in like and in as ample manner to all intents and purposes as the said court might or could do if the same were done, perpetrated or committed within the limits prescribed by the said charter of justice, and not otherwise or in any other manner.

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37 GEORGE III. A.D. 1796-97.

Chapter CXLII.

An Act for the better Administration of Justice at Calcutta, Madras and Bombay; and for preventing British Subjects from being concerned in Loans to the Native Princes in India. [*20th July 1797.*]

Preamble. 13 Geo 3 c 63.

Whereas by an Act passed in the thirteenth year of the reign of his present Majesty, intituled "An Act for establishing certain regulations for the better management of the affairs of the East India Company, as well in India as in Europe," it was enacted, that it should be lawful for his Majesty, by letters patent under the great seal of Great Britain, to erect and establish a supreme court of judicature at Fort William in Bengal, to consist of a chief justice and three other justices, being barristers of England or Ireland of not less than five years standing, to be named from time to time by his Majesty, his heirs and successors: And whereas by the said Act and by divers other Acts of Parliament certain jurisdictions, powers and authorities were given to the said court to be exercised in the manner therein directed: And whereas it may be expedient that the number of judges should be reduced: Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that immediately after the death, resignation or removal of any of the puisne judges of the said supreme court, that the office of one of the said puisne judges shall be and the same is hereby suppressed, and from and immediately after such death, resignation or removal, the said Supreme

On the death, &c. of any of the puisne judges of the Supreme Court of

Court shall consist of a chief justice and two other judges only; and all powers jurisdictions and authorities whatsoever shall, from and after such period as aforesaid, be enjoyed and exercised by the said chief justice and other judges, in as full and ample a manner as the same might have been held, enjoyed and exercised by the said Supreme Court under the authority of the said herein-before recited Act or any other Act or Acts of Parliament, or under the charter of justice granted by his Majesty under the authority of the same.

Judicature in Bengal, it shall consist of a chief justice and two other judges only.

II. And whereas his Majesty has by law no power to direct the application of any part of the revenues of the territorial acquisitions in India as a provision for a chief justice or other judge of the said Supreme Court, who, from infirmity or other causes approved of by his Majesty, may return to Europe: And whereas it is expedient that such power, to a limited extent, be vested in his Majesty, his heirs and successors: Be it therefore enacted by the authority aforesaid, that, from and after the death, resignation or removal of one of the judges of the said Supreme Court, and the suppression of the said office in the manner herein-before directed, that it shall and may be lawful for his Majesty, his heirs and successors, by warrant under his royal sign manual, to authorize and direct the payment of a competent yearly sum out of the revenues arising from the territorial acquisitions in India, to be applied for the use and behoof of any chief justice or other judge who from age, infirmity or other cause to be approved of by his Majesty, his heirs and successors, shall return to Europe.

His Majesty may direct the payment of a yearly sum out of the territorial revenues to any chief justice or other judge returning to Europe.

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IX. And whereas his late Majesty King George the Second did, by his letters patent bearing date at Westminster the eighth day of January in the twenty-sixth year of his reign, grant unto the United Company of Merchants trading to the East Indies his royal charter, thereby, amongst other things, constituting and establishing courts of civil, criminal and ecclesiastical jurisdiction at the said united company's settlements at Madras Patnam and Bombay in the island of Bombay and Fort William in Bengal: And whereas the said charter, in so far as it respects the administration of justice at Fort William in Bengal, has been altered and changed by an Act passed in the thirteenth year of his present Majesty's reign, intituled "An Act for establishing certain regulations for the better management of the affairs of the East India Company as well in India as in Europe": And whereas the said charter does not sufficiently provide for the due administration of justice in such manner as the state and condition of the company's settlements at Madras Patnam and Bombay do and must require: Be it therefore enacted, that it shall and may be lawful for his Majesty, by charter or letters patent under the great seal of Great Britain, to erect and establish a court of

Recital of charter of King George the Second.

His Majesty may erect courts of

Judicature at Madras and Bombay, to consist of the mayor, three aldermen, and a recorder, who shall be a barrister, and be appointed by his Majesty.

judicature at Madras and Bombay respectively, which shall consist of the mayor and three of the aldermen resident at the said settlements of Madras and Bombay respectively for the time being, which aldermen shall from time to time be selected in such manner as shall be directed and prescribed by his Majesty in the said charter, together with one other person at each of the said settlements to be named from time to time by his Majesty, his heirs and successors, which said person shall be a barrister of England or Ireland of not less than five years standing, which said person so appointed shall be the president of the said court, and shall be stiled The Recorder of Madras and Bombay respectively; which said courts of judicature shall have and the same are hereby declared to have full power and authority to exercise and perform all civil, criminal and ecclesiastical and admiralty jurisdiction, and to appoint such ministerial officers as may be necessary, and to form and establish such rules of practice, and such rules for the process of the said court, and to do all such other things as shall be necessary for the administration of justice and the due execution of all or any of the powers which shall or may by the said charter be committed to the said courts; and the same shall also be at all times courts of oyer and terminer and gaol delivery in and for Fort Saint George and the town of Madras and the limits thereof and the factories subordinate thereto, and in and for the town and island of Bombay and the limits thereof and the factories subordinate thereto respectively.

Extent of their jurisdiction.

X. Provided nevertheless, and be it further enacted, that the said new charter which his Majesty is hereby empowered to grant, and the jurisdiction, powers and authorities to be thereby established, shall extend to all British subjects who shall reside within any of the factories subject to or dependant upon the governments of Madras and Bombay respectively; and the said charter shall be competent and effectual, and the said courts therein and thereby established shall have full power and authority, according to their respective jurisdictions, to hear and determine all and all manner of complaints against any of his Majesty's subjects for any crimes, misdemeanors and oppressions committed or to be committed, and also to hear and determine all suits and actions whatsoever against any of his Majesty's subjects arising in territories subject to or dependant upon the said governments of Madras and Bombay respectively, or within any of the territories which now are or hereafter may be subject to or dependant upon the said governments, or within any of the dominions of the native princes of India in alliance with the said governments respectively, or against any persons who, at the time when such debt or cause of action shall have arisen, have been employed by or shall have been directly or indirectly in the service of the united company, or any of his Majesty's subjects: Provided always, that the said court shall not be

Courts not

competent to hear, try and determine any indictment or information against the governor or any of the council, not being treason or felony, which the governor or any of the council at Madras or Bombay respectively shall or may be charged with having committed within the jurisdiction of the said courts respectively.

competent to try informations against the governor or council, except for treason or felony.

XI. And be it further enacted, that the said courts so to be erected as aforesaid shall have full power and authority to hear, try and determine all and all manner of suits and actions, either civil or criminal, which by the authority of any Act or Acts of Parliament may now be heard, tried or determined by the mayor's courts at Madras or Bombay respectively or by the courts of oyer and terminer or gaol delivery there; and all powers, authorities and jurisdictions, of what kind or nature soever, which by any Act or Acts of Parliament may be or are directed to be exercised by the said mayor's courts or the said courts of oyer and terminer and gaol delivery, shall and may be as fully and effectually exercised by the said courts to be erected in the manner aforesaid as the same might have been exercised and enjoyed by the said mayor's courts or courts of oyer and terminer and gaol delivery respectively: Provided always, that nothing in this Act shall extend to subject the person of the governor or any of the council at the respective settlements, or the person of the recorder of the said court, to be arrested or imprisoned in any suit, action or proceeding in the said court; nor shall it be competent for the said courts within their respective jurisdictions to hear or determine or to entertain and exercise jurisdiction in any suit or action against the governor or any of the council at the said settlements of Madras and Bombay respectively, for or on account of any act or order, or any other act, matter or thing whatsoever, councilled, ordered or done by them in their public capacity or acting as governor and council; nor shall the said court have or exercise any jurisdiction in any matter concerning the revenue under the management of the said governor and council respectively, either within or beyond the limits of the said towns, forts or factories, or concerning any act done according to the usage and practice of the country and the regulations of the governor and council; and no person shall be subject to the jurisdiction of any of the said courts for or by reason of being a landowner, landholder or farmer of land or of land rent, or for receiving a pension or payment in lieu of any title to or ancient possession of land or land rent, or for receiving any compensation or share of profits for collecting rents payable to the public out of such lands or districts as are actually farmed by himself or those who are his undertenants by virtue of the farm, or for exercising within the said lands or farms any ordinary or local

Courts may try all suits which, by authority of Parliament, may now be tried by the mayor's courts, or courts of oyer and terminer.

The governor and council, and recorder of the court, not subject to arrest.

Jurisdiction of the courts not to extend to certain matters and persons.

authority commonly annexed to the possession or farm thereof, or for or by reason of his becoming security for the payment of the rents reserved or otherwise payable out of any lands or farms, or farms of lands, within the dominion subject to the governments of Madras and Bombay respectively; and no person for or by reason of his being employed by the said company or the governor and council, or by any person deriving authority under them for or on account of his being employed by a native or the descendant of a native of Great Britain, shall become subject to the jurisdiction of the said courts respectively in any matter of inheritance or succession to goods or lands, or in any matter of dealing or contract between party or parties, except in actions for wrongs or trespasses only.

Rights of fathers and masters of families preserved.

XII. And in order that due regard may be had to the civil and religious usages of the natives, be it enacted, that the rights and authorities of fathers of families and masters of families, according as the same may be exercised by the Gentu or Mahomedan law, shall be preserved to them within their families respectively, nor shall the same be violated or interrupted by any of the proceedings of the said courts, nor shall any act done in consequence of the rule or law of cast, so far as respects the members of the same family only, be deemed a crime, although the same may not be justifiable by the laws of England.

Courts may determine suits against the inhabitants according to the charter; but their inheritance of lands, &c. to be determined as would have been done in a native court; and where one party is a Mahomedan or Gentu, by the usages of the defendant, &c.

XIII. And be it further enacted, that the said courts so to be erected as aforesaid shall have full power to hear and determine all suits and actions that may be brought against the inhabitants of Madras and Bombay respectively in the manner that shall be provided by the said charter; yet nevertheless their inheritance and succession to lands, rents and goods, and all matters of contract and dealing between party and party, shall be determined, in the case of Mahomedans, by the laws and usages of the Mahomedans, and where the parties are Gentus, by the laws and usages of the Gentus, or by such laws and usages as the same would have been determined by if the suit had been brought and the action commenced in a native court; and where one of the parties shall be a Mahomedan or Gentu, by the laws and usages of the defendant; and in all suits so to be determined by the laws and usages of the natives the said court shall make such rules and orders for the conduct of the same, and frame such process for the execution of their judgements, sentences or decrees, as shall be most consonant to the religions and manners of the said natives, and to the said laws and usages respectively, and the easy attainment of the ends of justice; and such means shall be adopted for compelling the appearance of witnesses and taking their examination as shall be consistent with the said laws and usages, so that the said suits shall be conducted with as much ease and at as little expense as is consistent with the attainment of substantial justice.

XIV. And be it further enacted, that no action for wrong or injury shall be against any person whatever exercising a judicial office in any country court for any judgement, decree or order of the said court, or against any person for any act done by or in virtue of the order of the said court; and in case any information is intended to be brought against any such person or officer, the same shall be brought and proceeded in in the same manner, and to all intents and purposes in the same form, and to the same effect, as such informations are directed to be proceeded in before the Supreme Court of Judicature at Calcutta in Bengal by an Act passed in the twenty-first year of his Majesty's reign, intituled "An Act to explain and amend so much of an Act made in the "thirteenth year of the reign of his present Majesty, intituled 'An Act for "'establishing certain regulations for the better management of the affairs of "'the East India Company as well in India as in Europe,' as relates to "the administration of justice in Bengal, and for the relief of certain persons "imprisoned at Calcutta in Bengal under a judgement of the Supreme Court "of Judicature, and also for indemnifying the governor general and council "of Bengal, and all officers who have acted under their orders or authority, "in the undue resistance made to the process of the Supreme Court."

No action for wrong to be against a judicial officer for any order of court, nor for any act done by virtue of any such order; but if any information is intended it must be brought according to 21 Geo. 3. c. 70.

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XXVII. And be it further enacted, that all new forms of process, or rules and orders for the execution thereof, shall be transmitted to the president of the board of commissioners for the affairs of India, to be laid before his Majesty for his royal approbation, correction or refusal; and such process shall be used and such rules shall be observed until the same shall be repealed or varied, and in the last case with such variation as shall be made therein.

All new forms of process to be transmitted to the board for affairs of India.

XXVIII. And, whereas the practice of British subjects lending money or being concerned in the lending of the same, or in transactions for the borrowing money for or lending money to the native princes in India has been productive of much mischief and is the source of much usury and extortion: And whereas the wholesome orders of the court of directors of the United Company of Merchants trading to India have not been sufficient to restrain and repress the same: And whereas it is highly desirable that such practices should be prevented in future: Be it therefore enacted, that from and after the first day of December next no British subject shall by himself, or by any other person directly or indirectly employed by him, lend any money or other valuable thing to any native prince in India, by whatever name or description such native prince shall be called, nor shall any British subject, either by himself or by any other person directly or indirectly employed by him, be concerned in the lending any money to any such native prince, nor shall any British subject be concerned either by himself or by any other person, either

From Dec. 1, 1797, no British subject to lend any money or be concerned in raising any money for native princes without consent of the court of directors or the governor

in council, and any person doing so may be prosecuted for a misdemeanor.

directly or indirectly, in raising or procuring any money for any such native prince, or as being security for such loan or money, nor shall any British subject lend any money or other valuable thing to any other person for the purpose of being lent to any such native prince, nor shall any British subject, by himself or by any other person, either directly or indirectly, for his use and benefit, take, receive, hold, enjoy or be concerned in any bond, note or other security or assignment, granted or to be granted by any such native prince after the first day of December next for the loan or for the re-payment of money or other valuable thing, without the consent and approbation of the court of directors of the East India Company, or the consent and approbation of the governor in council of one of the said company's governments in India, first had and obtained in writing; and every person doing, acting or transacting, or being concerned in any actings, doings and transactions, contrary to this Act, shall be deemed and taken to be guilty of a misdemeanor at law, and shall and may be proceeded against and punished as such by virtue of this Act before any court of competent jurisdiction; and all bonds, notes, assignments or securities for money, of what kind or nature soever, taken, held or enjoyed, either directly or indirectly, for the use and benefit of any British subject, contrary to the true intent and meaning of this Act, shall be and the same are hereby declared to be null and void to all intents and purposes.

Securities for money lent contrary hereto to be void.

On complaint to the governments in India for acting contrary to this Act, the case to be laid before the law officers, whose report shall be transmitted to the court of directors.

XXIX. And be it further enacted, that when and so often as any information shall be given or complaint made to any of the governments of the said united company in the East Indies of any person having acted contrary to the provisions of this Act, such governments shall forthwith lay the case before the company's law officers at the settlement where it arises, who shall take the same into their consideration and report their opinion thereupon whether the same is a proper case for prosecution (together with their reasons for the same), which report shall be transmitted home to the court of directors by the first convenient opportunity.

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39 & 40 GEORGE III. A. D. 1799—1800.

Chapter LXXIX.

An Act for establishing further Regulations for the Government of the British Territories in India, and the better Administration of Justice within the same. [*28th July 1800.*]

Preamble.

Whereas the territorial possessions of the United Company of Merchants of England trading to the East Indies, in the peninsula of India, have become so much extended as to require further regulations to be made for the due government of the same: And whereas by an Act of Parliament

made and passed in the thirty-third year of the reign of his present Majesty, intituled "An Act for continuing in the East India Company for a "further term the possession of the British territories in India, together with "their exclusive trade, under certain limitations, for establishing further "regulations for the government of the said territories and the better "administration of justice within the same, for appropriating to certain "uses the revenues and profits of the said company, and for making pro-"vision for the good order and government of the towns of Calcutta, Madras "and Bombay," it is enacted, that the whole civil and military government of the presidency of Fort Saint George on the coast of Coromandel, and the ordering, management and government of all the territorial acquisitions and revenues on the said coast, and also so much and such parts of the territories and possessions on the coast of Orissa with the revenues of the same as had been and then were under the administration of the government or presidency of Fort Saint George, should be and were thereby vested in a governor and three counsellors of and for the said presidency of Fort Saint George, subject to such rules, regulations and restrictions as were therein mentioned; and that the whole civil and military government of the presidency and island of Bombay on the coast of Malabar, and the ordering, management and government of all the territorial acquisitions and revenues on the said coast of Malabar, should be and were thereby vested in a governor and three counsellors of and for the said presidency and island of Bombay, subject to the provision therein mentioned: May it therefore please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act it shall and may be lawful for the court of directors of the said company for the time being to declare and appoint what part or parts of the said territorial acquisitions, or of any other now subject to the government of the said presidency of Fort Saint George or the said presidency of Bombay, together with the revenues arising therefrom and the establishment of civil servants connected therewith respectively, shall from thenceforth hereafter be subject to the government of either and which of the said presidencies, or of the presidency of Fort William in Bengal, and from time to time, as occasion may require, to revoke and alter in the whole or in part such appointment, and to make such new distribution of the same as to them shall seem fit and expedient, subject nevertheless in all cases to the superintendence, direction and control of the Commissioners for the Affairs of India, in like manner as any acts or orders of the said court of directors are now by law subject; and all such

33 Geo. 3. c. 52.

The court of directors may appoint what parts of the territorial acquisitions, revenues, &c. shall be subject to either and which of their presidencies, subject to the control of the Commissioners for the Affairs of India.

territorial acquisitions, and the revenues arising therefrom and the establishment of civil servants connected therewith, shall from and after the time, and subject as to such time to the conditions and limitations to be by the said court of directors limited and appointed for such purposes respectively, be to all intents and purposes whatsoever annexed to and made subject to such presidency, and to the court or courts of judicature established or to be established therein respectively.

Letters patent of Geo 2, dated the 8th Jan in the 21st year of his reign.

II. And whereas his late Majesty King George the Second did by his letters patent, bearing date at Westminster the eighth day of January in the twenty-first year of his reign, grant unto the said United Company of Merchants of England trading to the East Indies his royal charter, thereby amongst other things constituting and establishing courts of civil, criminal and ecclesiastical jurisdiction at the united company's respective settlements at Madras Patnam, Bombay or the island of Bombay, and Fort William in Bengal: And whereas the said charter, in so far as it respects the administration of justice at Madras, has been altered and changed by virtue of an Act passed in the thirty-seventh year of his present Majesty, intituled "An "Act for the better administration of justice at Calcutta, Madras and Bombay, "and for preventing British subjects from being concerned in loans to the "native princes in India:" And whereas the said charter, so far as it respects the administration of justice at Fort William in Bengal, has also been altered and changed by virtue of an Act passed in the thirteenth year of his present Majesty, intituled "An Act for establishing certain regulations for the better "management of the affairs of the East India Company, as well in India as "in Europe," and by divers subsequent statutes: And whereas it may be expedient for the better administration of justice in the said settlement of Madras that a Supreme Court of Judicature should be established at Madras, in the same form and with the same powers and authorities as that now subsisting by virtue of the several Acts before-mentioned at Fort William in Bengal: Be it therefore enacted, that it shall and may be lawful for his Majesty, his heirs and successors, by charter or letters patent under the great seal of Great Britain, to erect and establish a Supreme Court of Judicature at Madras aforesaid, to consist of such and the like number of persons, to be named from time to time by his Majesty; his heirs and successors, with full power to exercise such civil, criminal, Admiralty and ecclesiastical jurisdictions, both as to natives and British subjects, and to be invested with such power and authorities, privileges and immunities, for the better administration of the same, and subject to the same limitations, restrictions and controul within the said Fort Saint George and town of Madras and the limits thereof and the factories subordinate thereto, and within the territories which now are

37 Geo 3. c. 142.

13 Geo. 3. c. 63.

His Majesty may establish a Supreme Court of Judicature at Madras, to consist of the like number of persons, and with the like powers, &c as the Supreme Court at Fort William.

or hereafter may be subject to or dependant upon the said government of Madras, as the said Supreme Court of Judicature at Fort William in Bengal, by virtue of any law now in force and unrepealed, or by this present Act, doth consist of, is invested with or subject to, within the said Fort William or the kingdoms or provinces of Bengal, Bahar and Orissa.

Exemption of the governor and council at Madras and the governor general of Fort William from the authority of the court.

III. PROVIDED always, that the governor and council at Madras and the governor general of Fort William aforesaid shall enjoy the same exemption, and no other, from the authority of the said Supreme Court of Judicature to be there erected, as is enjoyed by the said governor general and council at Fort William aforesaid from the jurisdiction of the Supreme Court of Judicature there already by law established.

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So much of the charter of his present Majesty for erecting the recorder's courts at Madras, &c. as relates to the appointment of a recorder, &c. at Madras, if a new charter be granted, shall be void, and the powers granted by 37 Geo. 3. c. 142 may be exercised by the Supreme Court.

V. AND be it further enacted, that so much of the charter granted by his present Majesty for erecting the courts of the recorder of Madras and Bombay, as relates to the appointment of such recorder and the erecting of such courts of judicature at Madras, in case a new charter shall be granted by his Majesty, his heirs or successors, and shall be openly published at Madras, from and immediately after such publication shall cease and determine and be absolutely void to all intents and purposes whatsoever; and all powers and authorities granted by the said Act of the thirty-seventh of his present Majesty to the said courts of the recorder at Madras shall cease and determine, and be no longer exercised by the said court, but the same shall and may be exercised by the Supreme Court of Judicature to be erected by virtue of this Act, in the manner and to the extent herein-before directed.

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Salaries to be in lieu of all perquisites.

VII. AND be it further enacted, that . . . . . all such salaries shall be in lieu of all fees of office, perquisites, emoluments and advantages whatsoever; and that no fees of office, perquisites, emoluments or advantages whatsoever shall be accepted, received or taken in any manner or on any account or pretence whatsoever, other than such salaries and allowances as are in and by this Act directed to be paid.

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The salaries of the judges of the Supreme Courts and of the recorder of Bombay to cease on their leaving India.

IX. PROVIDED always, and be it hereby further enacted, that when either of the judges of the Supreme Court of Judicature at Fort William, or of the Supreme Court of Judicature which his Majesty is hereby empowered to erect at Madras, or the recorder of Bombay, shall respectively leave India, the salary now payable or which may become payable under and by virtue of this Act to any such judge or recorder respectively shall cease and be no longer paid, any thing herein or in any former Act or Acts contained to the contrary thereof in anywise notwithstanding.

If the governor general of Fort William or the governor of Fort St. George or of Bombay shall signify his intended absence from the council, the senior member present shall preside; but no act of such council shall be valid unless signed by the governor general or governor respectively, if resident at the presidency and not prevented by indisposition; and if not so prevented, and he shall refuse to sign, he and the members who shall have signed shall mutually communicate the grounds of their opinions as directed by 33 Geo. 3. c. 52, in cases where he shall, when present, dissent from the council. The governor general, when absent, may nominate a vice president and deputy governor of Fort William.

XII. And be it further enacted, that if the governor general of Fort William in Bengal for the time being, or the governor of the said presidency of Fort Saint George and of the said presidency and island of Bombay respectively for the time being, shall happen to be absent from any council to be assembled for the said respective presidencies of Fort William and Fort Saint George and the said presidency and island of Bombay, owing to indisposition or any other cause whatsoever, and shall signify such his intended absence to such council so to be assembled, then and in every such case the senior member for the time being, who shall be present at the council so assembled, shall preside at such council in such manner, and with such full powers and authorities during the time that such council shall continue to be assembled, as such governor general or governor might or would have had in case such governor general or governor were himself actually present at such council: Provided nevertheless, that no act of any council so held shall be valid to any effect whatsoever, unless the same shall be signed by such governor general or governor respectively, if such governor general or governor shall at the time be resident at the presidency at which such council shall be so assembled, and shall not be prevented by such indisposition from signing the same: Provided always, that in case such governor general or governor, not being so prevented as aforesaid, shall decline or refuse to sign such act of council, he and the several members of the council who shall have signed the same shall mutually exchange with and communicate in writing to each other the grounds and reasons of their respective opinions, in like manner, and subject to such regulations and ultimate responsibility of such governor general or governor respectively, as are by the said Act passed in the thirty-third year of the reign of his present Majesty provided and directed, in cases where such governor general or governor respectively shall, when present, dissent from any measure proposed or agitated in such council respectively: Provided also, that nothing herein contained shall be taken or construed to prevent such governor general, in case he shall be absent from his own government of Bengal, to nominate a vice president and deputy governor of Fort William according to the provision for that purpose in the said Act passed in the thirty-third year of his present Majesty.

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From March 1, 1801, the power of the Supreme Court of Judicature of Fort William shall extend over

XX. And whereas the province or district of Benares has been ceded to the said united company and been annexed to the said presidency of Fort William in Bengal since the establishment of the said Supreme Court of Judicature at Fort William aforesaid, and it is expedient that the same should be subject to the jurisdiction of the said court in like manner as the kingdoms or provinces

of Bengal, Bahar and Orissa, and that the said province or district, and all other provinces or districts which may hereafter be at any time annexed and made subject to the said presidency, should be subject to such regulations as the governor general and council of Fort William aforesaid have framed or may frame for the better administration of justice among the native inhabitants and others within the same respectively: Be it therefore further enacted, that from and after the first day of March which will be in the year of our Lord one thousand eight hundred and one the power and authority of the said Supreme Court of Judicature in and for the said presidency of Fort William aforesaid, as now and by virtue of this Act established, and all such regulations as have been or may be hereafter, according to the powers and authorities, and subject to the provisions and restrictions before enacted, framed and provided, shall extend to and over the said province or district of Benares, and to and over all the factories, districts and places, which now are or hereafter shall be made subordinate thereto, and to and over all such provinces and districts as may at any time hereafter be annexed and made subject to the said presidency of Fort William aforesaid.

the province of Benares and all places subordinate thereto, and all districts hereafter annexed to the presidency of Fort William.

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XXV. And whereas it may be expedient for his Majesty, his heirs or successors, to issue a commission from his High Court of Admiralty in England for the trial and adjudication of prize causes and other maritime questions arising in India: Be it therefore further enacted, that it shall and may be lawful for his Majesty, his heirs and successors, to nominate and appoint all or any of the judges of the Supreme Court of Judicature at Fort William aforesaid, or of the Supreme Court of Judicature to be erected as aforesaid at Madras, or the court of the recorder at Bombay, either alone or jointly with any other persons to be named in such commission, to be commissioners for the purpose of carrying such commission so to be issued as aforesaid into execution, any Act or Acts to the contrary thereof in anywise notwithstanding.

His Majesty may appoint commissioners for carrying into execution a commission for the trial and adjudication of prize causes, &c., in India.

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42 GEO. III. A. D. 1801-2.

Chapter LXXXV.

An Act for the trying and punishing in Great Britain Persons holding public Employments, for Offences committed abroad; and for extending the Provisions of an Act passed in the Twenty-first Year of the Reign of King James, made for the ease of Justices and others in pleading in Suits brought against them, to all Persons, either in or out of this Kingdom, authorized to commit to safe custody. [*22nd June 1802.*]

Whereas persons holding and exercising public employments out of Great

Britain often escape punishment for offences committed by them for want of courts having a sufficient jurisdiction in or by reason of their departing from the country or place where such offences have been committed, and that such persons cannot be tried in Great Britain for such offences as the law now stands, inasmuch as such offences cannot be laid to have been committed within the body of any county: And whereas it is therefore expedient that such and the like provisions as are contained in an Act passed in the eleventh and twelfth years of the reign of his late Majesty King William the Third, intituled "An Act to punish governors of plantations of this kingdom for crimes by them committed in the plantations," and in an Act passed in the thirteenth year of the reign of His present Majesty, intituled "An Act for establishing certain regulations for the better management of the affairs of the East India Company, as well in India as in Europe," and in an Act passed in the twenty-fourth year of the reign of His present Majesty, intituled "An Act for the better regulation and management of the affairs of the East India Company, and of the British possessions in India, and for establishing a court of judicature for the more speedy and effectual trial of persons accused of offences committed in the East Indies," should be extended and applied to the punishment of such offenders: May it therefore please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that, from and after the passing of this Act, if any person who now is, or heretofore has been, or shall hereafter be employed by or in the service of his Majesty, his heirs or successors, in any civil or military station, office, or capacity out of Great Britain, or shall heretofore have had, held, or exercised, or now has, holds, or exercises, or shall hereafter have, hold, or exercise any public station, office, capacity, or employment, out of Great Britain, shall have committed, or shall commit, or shall have heretofore been, or is, or shall hereafter be guilty of any crime, misdemeanor, or offence, in the execution, or under colour, or in the exercise of any such station, office, capacity, or employment as aforesaid, every such crime, offence, or misdemeanor may be prosecuted or enquired of, and heard and determined in his Majesty's Court of King's Bench here in England, either upon an information exhibited by his Majesty's attorney general, or upon an indictment found, in which information or indictment such crime, offence, or misdemeanor may be laid and charged to have been committed in the county of Middlesex, and all such persons so offending, and also all persons tried under any of the provisions of the said recited Act passed in the reign of King William aforesaid, or this Act, or either of them, for any offence, crime, or misdemeanor, and not having

11 Will. 3. c. 12

13 Geo. 3. c. 63.

24 Geo. 3. sess. 2 c. 25.

Offences committed by persons employed in any public service abroad may be prosecuted in the Court of King's Bench in England; and may be laid in Middlesex, and the offenders punished as if the offences had been committed in England.

been before tried for the same out of Great Britain, shall, on conviction, be liable to such punishment as may, by any law or laws now in force, or any Act or Acts that may hereafter be passed, be inflicted for any such crime, misdemeanor, or offence committed in England, and shall also be liable, at the discretion of his Majesty's Court of King's Bench, to be adjudged to be incapable of serving his Majesty in any station, office, or capacity, civil or military, or of holding or exercising any public employment whatever.

The Court of King's Bench, on motion, may award a writ of mandamus to any court of judicature, or the governor, &c, of the country where the offence was committed, to obtain proofs of the matters charged in the indictment; which shall be obtained by viva voce evidence, and the same shall be transmitted to the Court of King's Bench, and admitted on the trial, &c.

II. And be it further enacted, that in all cases of indictments found or informations exhibited under and by virtue of this Act, it shall be lawful for his Majesty's said Court of King's Bench, upon motion to be made, and such notice thereof as to the said Court of King's Bench may appear to be sufficient, by or on behalf of his Majesty's attorney general or other prosecutor, or of the defendant or defendants, to award, at the discretion of the said court, a writ or writs of mandamus to any chief justice and judges, or any chief justice or other judge singly for the time being, of any court or courts of judicature in the country or island, or near to the place where the crime, offence, or misdemeanor shall be charged in such indictment or information to have been committed, or to any governor or lieutenant governor or other person having any chief authority in such country, island, or place, or to any other person or persons residing there, as the case may require, and as to the said Court of King's Bench may, under all the circumstances of the case, seem most expedient, for the purpose of obtaining and receiving proofs concerning the matters charged in any such indictment or information; and the person or persons to whom such writ or writs shall be directed and sent are hereby respectively authorized and required to hold a court, session, or meeting, with all convenient speed, for the examination of witnesses and receiving other proofs concerning the matters charged in such indictment or information respectively, and in the meantime to cause public notice to be given of the holding the said court, session, or meeting, and to issue such summons or other process as may be requisite for the attendance of witnesses, and to adjourn from time to time as occasion may require; and such examination or examinations shall be then and there openly and publicly taken viva voce in the said court, session or meeting, upon questions put by any such prosecutor or prosecutors, defendant or defendants, or any agent or agents, person or persons, on behalf of the said attorney general or other prosecutor or prosecutors, and defendant or defendants respectively, if any such shall attend for that purpose, and by the Court, person or persons to whom such writ shall be directed and sent as aforesaid, upon the respective oaths of witnesses, and the oaths of skilful interpreters if necessary, administered according to the forms of their several religions, and shall, by some officer or person sworn for that purpose,

be reduced into writing on parchment or paper, and in case any duplicate or duplicates shall be required by or on behalf of the prosecutor, or the defendant or defendants respectively, into two or more writings on parchment or paper, as the case may require; and such examination or examinations shall be sent to his Majesty in his Court of King's Bench closed up, and under the seal or seals of the person or persons before whom such examination or examinations as aforesaid shall have been taken; and the person or persons taking such examination or examinations as aforesaid shall deliver the same to any person or persons appointed by the said Court of King's Bench to receive the same, or shall transmit the same in such manner as the said Court of King's Bench shall direct; and all such examinations shall, with all convenient speed, be delivered to one of the clerks in court of his Majesty's Court of King's Bench, in the Crown office of the said court, for the safe custody thereof; and every clerk in the said Court of King's Bench, to whom any examination or examinations shall be delivered, is hereby authorized to administer an oath to the person delivering the same to him, in such form as the said Court of King's Bench shall direct; and such examination or examinations shall be allowed and read upon the trial of any such indictment or information, or any other subsequent proceeding thereon or relating thereto, and shall be deemed as good and competent evidence as if the witness or witnesses, whose examination or examinations shall be so read, had been present and sworn and examined viva voce at such trial, any law or usage to the contrary notwithstanding, saving all just exceptions to be taken to any such examination or examinations, or any part thereof, when the same shall be offered to be read as aforesaid, and all persons concerned shall be entitled to take copies of such examinations in the custody of such clerk in court at their own costs and charges.

Court of King's Bench may order an examination de bene esse, in cases where viva voce evidence cannot be had.

III. And be it further enacted, that it shall also be lawful for the said Court of King's Bench, upon motion to be made, and such notice thereof as aforesaid, by or on behalf of his Majesty's attorney general, or other prosecutor, or defendant or defendants in any such indictment or information, to order an examination de bene esse of witnesses upon interrogatories, in any case where the viva voce testimony of such witnesses cannot conveniently be had, to be taken before an examiner to be appointed by the said court; and the depositions taken upon such interrogatories shall be afterwards admitted to be read in evidence upon the trial of such indictment or information, or in any other subsequent proceeding thereon or relating thereto, and shall be deemed good and sufficient evidence in the law, saving all just exceptions to be taken to such depositions when the same shall be offered to be read as aforesaid.

IV. And be it further enacted, that it shall be lawful for any person or persons to whom any such writ or writs of mandamus shall be directed or order sent as aforesaid, and, in case the same shall be directed or sent to more than one person, for so many of them as shall for that purpose be appointed by the said writ or required by the said order, and who shall act in the execution thereof, and such person and persons is and are hereby respectively authorized and required, to administer all oaths required to be taken under any of the provisions of this Act, or necessary for the due execution of any such writ or order, or any act, matter, or thing relating thereto, and to examine upon oath all persons whom he or they find occasion to summon, and all other persons whom he or they shall think fit to examine, touching all matters and things necessary for the due execution of any such writ or order as aforesaid; and such person and persons respectively to whom such writ shall be directed or order sent as aforesaid, or so many of them as shall in that behalf be appointed and shall act in the execution thereof as aforesaid, shall have full power and authority to compel the appearance and giving evidence of any witness upon any such writ or order, and to issue special summons or other process for that purpose, and may proceed upon such summons or other process, by imprisonment of the body of any person refusing to appear or give evidence, in like manner as any court or courts of record within this kingdom, having competent authority for that purpose, may proceed against any person or persons for any contempt committed against the authority of any such court.

Persons to whom such writs of mandamus shall be directed, shall do all things necessary for the due execution thereof by compelling the appearance and giving evidence of witnesses, &c.

V. And be it further enacted, that in case any person or persons in the course of his, her, or their examination upon oath, under and by virtue of the said recited Act of the twenty-fourth year of his present Majesty, or this Act, shall wilfully and corruptly give false evidence, such person or persons so offending, and being thereof duly convicted, shall be, and is and are hereby declared to be, subject and liable to such pains and penalties as persons guilty of wilful and corrupt perjury shall be liable to by any law or laws then in force in the kingdom, island, or place where such false evidence shall have been given as aforesaid.

Persons giving false evidence shall be subject to the pains inflicted for perjury.

VI. And whereas it is expedient to extend the provisions of an Act, passed in the twenty-first year of the reign of his Majesty King James the First, intituled "An Act to enlarge and make perpetual the Act made for ease in pleading against troublesome and contentious suits prosecuted against justices of the peace, mayors, constables and certain other his Majesty's officers, for the lawful execution of their office, made in the seventh year of his Majesty's most happy reign" to all persons who may by law commit to safe custody, either in or out of this kingdom: Be it therefore enacted, that from and after the passing of this Act, the said recited Act and all the provisions therein

Provisions of 21. Ja. I. c. 12, extended to

all persons having public employment in this kingdom or in the colonies and foreign possessions of the Crown who by law are empowered to commit persons to safe custody.

contained shall extend, and be deemed, taken, and construed to extend, to all persons having, holding or exercising, or being employed in, or who may hereafter have, hold, or exercise, or be employed in any public employment, or any office, station, or capacity, either civil or military, either in or out of this kingdom, and who under and by virtue or in pursuance of any Act or Acts of Parliament, law or laws, or lawful authority within this kingdom, or any Act or Acts, statute or statutes, ordinance or ordinances, or law or laws, or lawful authority in any plantation, island, colony, or foreign possession of his Majesty, now have or may hereafter have by virtue of any such public employment, or such office, station or capacity, power or authority to commit persons to safe custody; and all such persons, having such power or authority as aforesaid, shall have and be entitled to all the privileges, benefits, and advantages given by the provisions of the said Act as fully and effectually, to all intents and purposes, as if they had been specially named therein: Provided always, that where any action, bill, plaint, or suit upon the case, trespass, battery or false imprisonment, shall be brought against any such person as is in this Act described as aforesaid, in this kingdom, for or upon any act, matter, or thing done out of this kingdom, it shall be lawful for the plaintiff bringing the same to lay such act, matter, or thing, to have been done in Westminster, or in any county where the person against whom any such action, bill, plaint, or suit, shall be brought shall then reside, anything in this Act to the contrary thereof notwithstanding.

Where any action shall be brought for anything done out of this kingdom, it may be laid in Westminster, or in any county where the defendant shall reside.

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49 GEO. III. A. D. 1809.

Chapter CXXVI.

An Act for the further Prevention of the Sale and Brokerage of Offices.

[*20th June 1809.*]

5 & 6 Ed. 6. c. 16.

Whereas an Act passed in the fifth and sixth year of the reign of King Edward the Sixth, intituled "Against buying and selling of offices:" And whereas it was in and by the said Act enacted, amongst other things, that if any person or persons at any time thereafter bargained or sold any office or offices or deputation of any office or offices, or any part or parcel of any of them, or received, had, or took any money, fee, reward, or any other profit, directly or indirectly, or took any promise, agreement, covenant, bond, or any assurance to receive or have any money, fee, reward, or other profit, directly or indirectly, for any office or offices, or for the deputation of any office or offices, or any part of any of them, or to the intent that any person should have, exercise, or enjoy any office or offices, or the deputation of any office or offices, or any

part of any of them, which office or offices, or any part or parcel of them, should in anywise touch or concern the administration or execution of justice, or the receipt, controlment or payment of any of the King's Highness treasure, money, rent, revenue, account, aulnage, auditorship, or surveying of any of the King's Majesty's honors, castles, manors, lands, tenements, woods or hereditaments, or any of the King's Majesty's customs, or any other administration or necessary attendance to be had, done, or executed in any of the King's Majesty's custom house or houses, or the keeping of any of the King's Majesty's towns, castles, or fortresses, being used, occupied, or appointed for places of strength and defence, or which should concern or touch any clerkship to be occupied in any manner of court of record wherein justice was to be ministered, that, then all and every such person and persons that should so bargain or sell any of the said office or offices, deputation or deputations, or that should take any money, fee, reward, or profit for any of the said office or offices, deputation or deputations of any of the said offices, or any part of any of them, or that should take any promise, covenant, bond, or assurance for any money, reward, or profit to be given for any of the said office or offices, deputation or deputations of any of the said office or offices, or any part of any of them, should not only lose and forfeit all his and their right, interest, and estate which such person or persons should then have of, in, or to any of the said office or offices, deputation or deputations, or any part of any of them, or of, in, or to the gift or nomination of any of the said office or offices, deputation or deputations, for the which office or offices, or for the deputation or deputations of which offices, or for any part of any of them, any such person or persons should so make any bargain or sale, or take or receive any sum of money, fee, reward, or profit, or any promise, covenant, or assurance to have or receive any fee, reward, money, or profit, but also that all and every such person or persons that should give or pay any sum of money, reward, or fee, or should make any promise, agreement, bond, or assurance for any of the said offices, or for the deputation or deputations of any of the said office or offices, or any part of any of them, should immediately by and upon the same fee, money, or reward given or paid, or upon any such promise, covenant, bond, or agreement had or made for any fee, sum of money, or reward to be paid as is aforesaid, be adjudged a disabled person in the law to all intents and purposes, to have, occupy, or enjoy the said office or offices, deputation or deputations, or any part of any of them, for the which such person or persons should so give or pay any sum of money, fee, or reward, or make any promise, covenant, bond, or other assurance to give or pay any sum of money, fee, or reward; and that all and every such bargains, sales, promises, bonds, agreements, covenants, and assurances as before specified should be void to

and against him and them by whom any such bargain, sale, bond, promise, covenant, or assurance should be had or made: And whereas it was in the said Act provided that the said Act or anything therein contained should not in anywise extend to any office or offices whereof any person or persons was or should be seised of any estate of inheritance, nor to any office of parkership, or of the keeping of any park, house, manor, garden, chase, or forest, or to any of them: And whereas it was by the said Act further provided, that if any person or persons did thereafter offend in anything contrary to the tenor and effect of the said Act, yet that notwithstanding all judgments given, and all other act and acts executed or done by any such person or persons so offending, by authority or colour of the office or deputation which ought to be forfeited or not occupied or not enjoyed by the person so offending, after the said offence so by such person committed or done, and before such person so offending for the same offence should be removed from the exercise, administration and occupation of the said office or deputation, should be and remain good and sufficient in law to all intents, constructions, and purposes, in such like manner and form as the same would or ought to have remained and been if this Act had never been had or made: And whereas it was by the said Act further provided, that the said Act, or anything therein contained, should not in anywise extend, or be prejudicial or hurtful to any of the chief justices of the King's courts, commonly called the King's Bench or Common Place, or to any of the justices of assize, that then were or thereafter should be, but that they and every of them might do in every behalf touching or concerning any office or offices to be given or granted by them or any of them, as they or any of them might have done before the making of the said Act: Be it therefore declared and enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act, the said Act and all the provisions therein contained shall extend and be construed to extend to Scotland and Ireland, and to all offices in the gift of the crown or of any office appointed by the crown, and all commissions, civil, naval, or military, and to all places and employments, and to all deputations to any such offices, commissions, places, or employments, in the respective departments or offices or under the appointment or superintendence and controul of the lord high treasurer or commissioners of the Treasury, the secretary of state, the lords commissioners for executing the office of lord high admiral, the master general and principal officers of his Majesty's ordnance, [Rep., Stat. Law Rev. Act, 1872 (No. 2)] the commander in chief, the secretary at war, the paymaster general of his Majesty's forces, the commissioners for the affairs of India, the commissioners of the excise, the treasurer of the navy, the commissioners of the navy, the commissioners for

Provisions of recited Act extended to other offices.

victualling, the commissioners of transports, the commissary general, the storekeeper general [Rep., Stat. Law Rev. Act, 1872 (No. 2)] and also the principal officers of any other public department or office of his Majesty's government in any part of the United Kingdom, or in any of his Majesty's dominions, colonies, or plantations which now belong or may hereafter belong to his Majesty, and also to all offices, commissions, places, and employments belonging to or under the appointment or controul of the United Company of Merchants of England trading to the East Indies, in as full and ample a manner as if the provisions of the said Act were repeated as to all such offices, commissions, places, and employments, and made part of this Act; and the said Act and this Act and all the clauses and provisions therein respectively contained shall be construed as one Act, as if the same had been herein repeated and re-enacted.

When right forfeited, appointment to go to his Majesty.

II. Provided always, and be it further enacted, that where the right, estate, or interest of any person or persons shall be forfeited under any of the provisions of the said Act or this Act, the right of such appointment shall immediately vest in and belong to his Majesty, his heirs and successors.

Persons buying or selling offices, or receiving or paying money or rewards for offices, guilty of a misdemeanor.

III. And be it further declared and enacted, that from and after the passing of this Act, if any person or persons shall sell or bargain for the sale of, or receive, have, or take any money, fee, gratuity, loan of money, reward, or profit, directly or indirectly, or any promise, agreement, covenant, contract, bond, or assurance, or shall by any way, device, or means contract or agree to receive or have any money, fee, gratuity, loan of money, reward or profit, directly or indirectly, and also if any person or persons shall purchase or bargain for the purchase of, or give or pay any money, fee, gratuity, loan of money, reward or profit, or make or enter into any promise, agreement, covenant, contract, bond, or assurance to give or pay any money, fee, gratuity, loan of money, reward or profit, or shall by any way, means, or device contract or agree to give or pay any money, fee, gratuity, loan of money, reward or profit, directly or indirectly, for any office, commission, place or employment specified or described in the said recited Act or this Act, or within the true intent or meaning of the said Act or this Act, or for any deputation thereto, or for any part, parcel, or participation of the profits thereof, or for any appointment or nomination thereto or resignation thereof, or for the consent or consents, or voice or voices of any person or persons to any such appointment, nomination, or resignation, then and in every such case every such person, and also every person who shall wilfully and knowingly aid, abet, or assist such person therein, shall be deemed and adjudged guilty of a misdemeanor.

Persons

IV. And be it further enacted, that from and after the passing of this Act,

receiving or paying money for soliciting offices, or for any negociations or pretended negociations relating thereto, guilty of a misdemeanor.

if any person or persons shall receive, have, or take any money, fee, reward, or profit, directly or indirectly, or take any promise, agreement, covenant, contract, bond or assurance, or by any way, means, or device contract or agree to receive or have any money, fee, gratuity, loan of money, reward or profit, directly or indirectly, for any interest, solicitation, petition, request, recommendation, or negociation whatever made or to be made or pretended to be made, or under any pretence of making or causing or procuring to be made any interest, solicitation, petition, request, recommendation, or negociation, in or about or in anywise touching, concerning, or relating to any nomination, appointment, or deputation to or resignation of any such office, commission, place, or employment as aforesaid, or under any pretence for using or having used any interest, solicitation, petition, request, recommendation, or negociation in or about any such nomination, appointment, deputation or resignation, or for the obtaining or having obtained the consent or consents, or voice or voices of any person or persons as aforesaid to such nomination, appointment, deputation, or resignation; and also if any person or persons shall give or pay or cause or procure to be given or paid any money, fee, gratuity, loan of money, reward or profit, or make or cause or procure to be made any promise, agreement, covenant, contract, bond or assurance, or by any way, means, or device contract or agree or give or pay or cause or procure to be given or paid any money, fee, gratuity, loan of money, reward, or profit for any solicitation, petition, request, recommendation or negociation whatever, made or to be made, that shall in anywise touch, concern, or relate to any nomination, appointment, or deputation to or resignation of any such office, commission, place, or employment as aforesaid, or for the obtaining or having obtained, directly or indirectly, the consent or consents, or voice or voices of any person or persons as aforesaid to any such nomination, appointment, deputation, or resignation; and also if any person or persons shall for or in expectation of gain, fee, gratuity, loan of money, reward, or profit solicit, recommend, or negociate in any manner for any person or persons in any matter that shall in anywise touch, concern, or relate to any such nomination, appointment, deputation, or resignation aforesaid, or for the obtaining, directly or indirectly, the consent or consents, or voice or voices of any person or persons to any such nomination, appointment or deputation, or resignation aforesaid; then and in every such case every such person, and also every person who shall wilfully and knowingly aid, abet, or assist such person therein, shall be deemed and adjudged guilty of a misdemeanor.

V. And whereas, on the pretence of negociating or soliciting the sale, transfer, or appointment of any office or offices which under the exception of

this Act or otherwise it may be lawful to sell, offices for negociating the same and advertisements may be published by means and under the colour of which illegal transactions intended to be prohibited by this Act may be carried on: Be it therefore further enacted, that from and after the passing of this Act, if any person or persons shall open or keep any house, room, office, or place for the soliciting, transacting, or negociating in any manner whatever any business relating to vacancies in, or the sale or purchase of, or appointment, nomination or deputation to, or resignation, transfer, or exchange of any offices, commissions, places, or employments whatever in or under any public department, then and in every such case every such person, and also every person who shall wilfully and knowingly aid, abet, or assist therein, shall be deemed and adjudged guilty of a misdemeanor.

Persons opening or advertising houses for transacting business relating to the sale of offices, guilty of a misdemeanor.

VI. And be it further enacted, that if any person or persons shall advertise or publish or cause or procure to be advertised, or in any manner published any house, room, office, or place to have been or to be opened, set up, or kept for any of the purposes aforesaid, or advertise or publish or cause or procure to be advertised or published the name or names of any person or persons as broker or brokers, agent or agents, solicitor or solicitors for any of the purposes aforesaid, or print or cause or procure or permit or suffer to be printed or advertised any advertisement or advertisements, proposal or proposals for any of the purposes aforesaid, then and in such case such person or persons shall forfeit for every such offence the sum of fifty pounds, to be sued for, levied, or recovered in any of his Majesty's courts of record at Westminster as to all offences committed in England, or at Dublin as to offences committed in Ireland, or in his Majesty's courts in Scotland as to offences committed in Scotland respectively; and the whole of every such penalty shall go to the person who shall sue for the same, with full costs of suit.

Penalty on persons advertising such houses, or the names of brokers or agents.

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IX. Provided always, and be it further enacted, that nothing in this Act contained shall extend or be construed to extend to any office excepted from the provisions of the said Act passed in the sixth year of the reign of King Edward the Sixth against buying and selling of offices, or to any office which was legally saleable before the passing of this Act and in the gift of any person by virtue of any office of which such person is or shall be possessed under any patent or appointment for his life, ...

Act not to extend to offices excepted in former Act, &c.

X. Provided also, and be it further enacted, that nothing in this Act contained shall extend or be construed to extend to prevent or make void any deputation to any office in any case in which it is lawful to appoint a deputy, or any agreement, contract, bond, or assurance lawfully made in respect of any allowance, salary, or payment made or agreed to be made by or

Act not to extend to deputations where it is lawful to appoint deputies, or to agreements as

to payment of principal or deputy out of the fees.

to such principal or deputy respectively out of the fees or profits of such office.

Act not to extend to annual payments out of the fees of any office to any former holder;

XI. PROVIDED also, and be it further enacted, that nothing in the said Act or in this Act contained shall extend to any annual reservation, charge, or payment made or required to be made out of the fees, perquisites, or profits of any office to any person who shall have held such office, in any commission or appointment of any person succeeding to such office, or to any agreement, contract, bond, or other assurance made for securing such reservation, charge, or payment: Provided always, that the amount of such reservation, charge, or payment, and the circumstances and reasons under which the same shall have been permitted shall be stated in the commission, patent, warrant, or instrument of appointment of the person so succeeding to and holding such office and paying or securing such money as aforesaid.

Amount of and reasons for such payment to be stated.

Manner of punishing offenders in Scotland.

XIII. PROVIDED always, and be it enacted, that every person who shall commit in Scotland any offence against this Act, which by the provisions of the same is constituted a misdemeanor, shall be liable to be punished by fine and imprisonment, or by the one or the other of such punishments, as the judge or judges before whom such offender shall be tried and convicted may direct.

Offences committed abroad shall be tried in King's Bench,

XIV. AND be it further enacted, that all offences committed against the provisions of the said recited Act and this Act by any governor, lieutenant governors, or persons having the chief command, civil or military, in any of his Majesty's dominions, colonies, or plantations, or his or their secretary or secretaries, may and shall be prosecuted and enquired of and heard and determined in his Majesty's Court of King's Bench at Westminster, in like manner as any crime, offence, or misdemeanor committed by any person holding a public employment abroad may be prosecuted and enquired of under the provisions of an Act passed in the forty-second year of the reign of his present Majesty, intituled "An Act for the trying and punishing in Great Britain persons holding public employments for offences committed abroad; and for extending the provisions of an Act passed in the twenty-first year of the reign of King James, made for the ease of justices and others in pleading in suits brought against them, to all persons, either in or out of this kingdom, authorized to commit to safe custody."

under 42 Geo. 3. c 74.

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50 GEO. III. A. D. 1810.

Chapter LXXXVII.

An Act to amend two Acts relating to the raising Men for the Service of the East India Company, and the Quartering and Billeting such Men, and to Trials by Regimental Courts Martial. [*15th June 1810.*]

Whereas an Act passed in the thirty-ninth year of the reign of his present Majesty, intituled "An Act for the better recruiting the forces of the East India Company:" And whereas an Act passed in the twenty-seventh year of the reign of his late Majesty King George the Second, intituled "An Act for punishing mutiny and desertion of officers and soldiers in the service of the United Company of Merchants of England trading to the East Indies, and for the punishment of offences committed in the East Indies or at the Island of Saint Helena:" And whereas it would tend to the more speedy recruiting of the forces of the East India Company if men were permitted to enlist for a limited time in the service of the said company without engaging to serve in his Majesty's forces; and provision must in such case be made for quartering and billeting the men so raised: And whereas it is also expedient that the provisions of the said recited Act of his late Majesty King George the Second as to trials by regimental courts martials should be amended in relation to the members and witnesses being sworn, as now required on such trials in his Majesty's regular forces: . . . . . .

39 Geo. 3. c. 109.

27 Geo. 2. c. 9.

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VII. And be it further enacted, that all regimental and garrison and other courts martial which shall be held for the trial of any offences committed by the troops in the service of the said United Company shall have full power and are hereby authorized and required to take and administer such oaths, and to proceed in such manner in the trial of offences as his Majesty shall from time to time think fit to order and direct.

Courts martial for trial of troops of East India Company shall have power to take and administer oaths, &c., and to proceed as directed by his Majesty.

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51 GEO. III. A. D. 1811.

Chapter LXIV.

An Act to enable the East India Company to raise a further Sum of Money upon Bond, instead of increasing their Capital Stock; and to alter and amend an Act passed in the Forty-seventh Year of the reign of His present Majesty relative thereto. [*10th June 1881.*]

Whereas by an Act made in the thirty-seventh year of the reign of his present Majesty, intituled "An Act to enable the East India Company to

37 Geo. 3. c. 31.

raise money for further increasing their capital stock, and to extend the provisions now existing respecting the present stock of the company to the said increased stock," after reciting that the affairs of the united company of merchants of England required a permanent advance of a considerable sum of money beyond what the said company could raise under the powers then vested in them by law, the said united company are authorized and empowered to raise money by enlarging their then capital stock or fund of six millions of pounds to any sum or sums not exceeding the further sum of two millions capital stock, so that their whole capital stock should not exceed the capital sum of eight millions: . . . . . .

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Bonds issued by the East India Company under their common seal shall be transferable by delivery, &c.

IV. And whereas bonds issued under the common seal of the said united company for money borrowed by them by virtue of the powers enabling them to borrow money upon bond have usually been entered into and have been expressed to have been made payable to the person who for the time being has been the treasurer of the said united company, or his assigns, and upon his indorsement thereof they have been sold and passed from one person to another by delivery of the possession thereof; and it is expedient that a legal effect should be given to such mode of transfer of the property in the said bonds and the money secured thereby: Be it therefore further enacted, that all bonds issued or to be issued under the common seal of the said united company by virtue of any power by which they have been, are, or hereafter may be authorized to borrow money upon their bonds shall be assignable and transferable by delivery of the possession thereof; and upon every such assignment or transfer the money secured by the bond so assigned or transferred and due and to become due thereon, and the property in such bond, shall be absolutely vested as well at law as in equity in the person or persons, body or bodies politic and corporate to whom the same shall be so assigned or transferred, and the person or persons, body or bodies politic and corporate to whom any such bond shall be so assigned and transferred and his, her, and their executors, administrators, and successors respectively shall and may maintain his, her, or their action for the principal and interest secured thereby and due thereon, or otherwise relating thereto, in like manner as the obligee or obligees named in any such bond, or his, her, or their executors, administrators, or successors may now maintain any action thereon; and in every such action the plaintiff or plaintiffs shall recover his, her, or their debt, damages, and costs of suit; and if any such plaintiff or plaintiffs shall be nonsuited, or a verdict be given against him, her, or them, the defendant or defendants shall recover his, her, or their costs against the plaintiff or plaintiffs; and every such plaintiff or

plaintiffs, defendant or defendants respectively recovering may sue out execution for such debt, damages, and costs by capias, fieri facias, or elegit.

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51 GEO. III. A. D. 1811.

Chapter LXXV.

An Act for making further Provision for the Payment of Salaries and other Charges in the Office of the Commissioners for the Affairs of India; and for enabling the East India Company to restore to the service of the said Company Military Officers removed therefrom by sentences of Courts Martial, and to authorize the said Company in Cases of unforeseen Emergency to take up Ships by private Contract. [*15th June 1811.*]

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IV. And whereas it was in and by the said Act of the thirty-third year of his present Majesty's reign also enacted that after sentence or judgment of any court having competent jurisdiction, whether in Great Britain or in India, against any governor general, governor, president, councillor, or commander in chief, or against any of the said united company's servants, civil or military, for any debts or penalty due or belonging to the said united company, or for any extortion or other misdemeanor, it should not be lawful for the said united company in any case whatever to release or compound such sentence or judgment, or to restore any servant or servants of the said company who should have been removed or dismissed from his or their office or employment for or on account of misbehaviour by the sentence of any of the said courts: And whereas doubts have arisen whether military officers may be restored to the service of the said united company who may have been removed therefrom by sentences of courts martial: Be it therefore enacted and declared, that it was and is lawful for the court of directors of the said united company to restore to the service of said company any military officer who shall have been or shall be dismissed or suspended therefrom by the sentence of a court martial.

33 Geo. 3. c. 32

East India Company may restore to their service military officers dismissed or suspended by sentences of courts martial.

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52 GEO. III. A. D. 1812.

Chapter CLVI.

An Act for the more effectual Punishment of Persons aiding Prisoners of War to escape from His Majesty's Dominions. [*29th July 1812.*]

Whereas many prisoners of war confined and on parole in different parts

of his Majesty's dominions have of late escaped by the aid and assistance of many of his Majesty's subjects and others; and it is necessary to repress such practices and violations of the allegiance due to his Majesty and of the law by more effectual punishment: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that every person who shall from and after the passing of this Act knowingly and wilfully aid or assist any alien enemy of his Majesty, being a prisoner of war in his Majesty's dominions, whether such prisoner shall be confined as a prisoner of war in any prison or other place of confinement, or shall be suffered to be at large in his Majesty's dominions or any part thereof on his parole, to escape from such prison or other place of confinement, or from his Majesty's dominions, if at large upon parole, shall upon being convicted thereof be adjudged guilty of felony, and be liable to be transported as a felon for life, or for such term of fourteen or seven years as the court before whom such person shall be convicted shall adjudge.

Punishment of persons aiding prisoners of war to escape.

II. Provided always, and be it further enacted, that every person who shall knowingly and wilfully aid or assist any such prisoner at large on parole in quitting any part of his Majesty's dominions where he may be on his parole, although he shall not aid or assist such person in quitting the coast of any part of his Majesty's dominions, shall be deemed guilty of aiding the escape of such person under the provisions of this Act.

Persons guilty of aiding though they do not assist the prisoner in quitting the coast.

III. And be it further enacted, that if any person or persons owing allegiance to his Majesty, after any such prisoner as aforesaid hath quitted the coast of any part of his Majesty's dominions in such his escape as aforesaid, shall knowingly and wilfully upon the high seas aid or assist such prisoner in his escape to or towards any other dominions or place, such person shall also be adjudged guilty of felony, and be liable to be transported as aforesaid; and such offences committed upon the high seas and not within the body of any county shall and may be enquired of, tried, heard, determined, and adjudged in any county within the realm, in like manner as if such offences had been committed within such county.

Punishment of persons assisting on the high seas prisoners to escape.

IV. And be it also enacted, that this Act shall not be deemed or taken to prevent any person committing any offence mentioned in this Act from being prosecuted in such manner as he might by law have been prosecuted if this Act had not passed; but nevertheless no person prosecuted otherwise than under the provisions of this Act shall be liable to be prosecuted for the same offence under the provisions hereof; and no person prosecuted under the provisions of this Act shall for the same offence be liable to be otherwise prosecuted.

Offenders may be tried otherwise than under the provisions of this Act; but not in both ways.

53 GEO. III. A. D. 1812-13.

Chapter CLV.

An Act for continuing in The East India Company for a further Term the Possession of the British Territories in India, together with certain exclusive Privileges; for establishing further Regulations for the Government of the said Territories, and the better Administration of Justice within the same, and for regulating the Trade to and from the Places within the Limits of the said Company's Charter. [*21st July 1813.*]

Whereas by an Act of the Parliament of Great Britain passed in the thirty-third year of his present Majesty's reign, for continuing in the East India company for a further term the possession of the British territories in India, together with their exclusive trade, under certain limitations, and for other purposes, the possession and government of the British territories in India, together with an exclusive trade in, to, and from the East Indies, and other the limits described in an Act made in the ninth year of the reign of King William the Third, or in a certain charter of the fifth day of September in the tenth year of the same King, were continued in the united company of merchants of England trading to the East Indies, for a term thereby limited, under certain regulations and conditions: And whereas by an Act of the Parliament of Ireland passed in the same thirty-third year of his present Majesty's reign, for regulating the trade of Ireland to and from the East Indies, under certain conditions and provisions for a time therein mentioned, the exclusive privileges granted to the said united company by the said Act of the Parliament of Great Britain were confirmed, subject to certain conditions and restrictions: And whereas it is expedient that the territorial acquisitions mentioned in the said Act of the Parliament of Great Britain of the thirty-third year of his present Majesty, together with such other territorial acquisitions on the continent of Asia, or in any islands situate to the north of the Equator, as are now in the possession and under the government of the said united company, with the revenues thereof, should, without prejudice to the undoubted sovereignty of the Crown of the United Kingdom of Great Britain and Ireland in and over the same, or to any claim of the said united company to any rights, franchises, or immunities, remain in the possession and under the government of the said united company for a further term, subject to such powers and authorities for the superintendence, direction, and controul over all acts, operations, and concerns which relate to the civil or military government or revenues of the said territories, and to such further or other powers, authorities, rules, regulations, and restrictions as have been already made or provided by any Act or Acts of Parliament in that behalf, or are made and provided by this Act: And whereas it is expedient that, from and after the tenth day of April one thousand eight hundred and fourteen, the right of trading, trafficking, and adventuring in, to, and from all ports and places within the limits of the said united company's present charter, save and except the dominions of the Emperor of China, should be open to all his Majesty's subjects in common with the said united company, subject to certain regulations and provisions; but that the existing restraints respecting the commercial intercourse with China should be continued, and the exclusive trade in tea preserved to the said company during the further term hereby limited: May it therefore please your

33 Geo. 3. c. 52.

9 Will. 3. c. 44.

33 Geo. 3. c. 31 (I.)

Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that the territorial acquisitions mentioned in the said Act of the Parliament of Great Britain of the thirty-third year of his present Majesty, together with such of the territorial acquisitions since obtained upon the continent of Asia, or in any islands situate to the north of the Equator, as are now in the possession of and under the government of the said united company, with the revenues thereof respectively, shall remain and continue in the possession and under the government of the said united company, subject to such powers and authorities for the superintendence, direction, and controul over all acts, operations, and concerns which relate to the civil or military government or revenues of the said territories, and to such further and other powers, authorities, rules, regulations, and restrictions, as have been already made or provided by any Act or Acts of Parliament in that behalf, or are made and provided by this Act, for a further term, to be computed from the said tenth day of April one thousand eight hundred and fourteen, until the same shall be determined by virtue of the proviso herein-after contained. [Rep. Stat. Law Rev. Act, 1873.]

Former territorial acquisitions in India, with late acquisitions on the continent of Asia, or in any island north of the Equator, to continue under the government of the East India Company, for a further term.

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Colleges and seminaries of the company to be subject to the controul of the India board.

XLII. And be it further enacted, that the said board of commissioners for the affairs of India, by force and virtue of this Act, shall have and be invested with full power and authority to superintend, direct, and controul all orders and instructions whatsoever which in anywise relate to or concern any rules, regulations, or establishments whatsoever of the several colleges established by the said company at Calcutta or Fort St. George, or of any seminaries which may be established under the authority of any of the governments of the said company, in the same manner, to all intents and purposes, and under and subject to all such and the like regulations and provisions, as if such orders and instructions immediately related to, and concerned the government and revenues of the said territorial acquisitions in the East Indies.

Schools, public lectures, &c. for the benefit of the natives, to be provided and regulated by governor general in council, subject to controul of the board; but appointments to offices therein to be made by the local governments.

XLIII. And be it further enacted, that it shall be lawful for the governor general in council to direct that out of any surplus which may remain of the rents, revenues, and profits arising from the said territorial acquisitions, after defraying the expences of the military, civil, and commercial establishments, and paying the interest of the debt, in manner herein-after provided, a sum of not less than one lac of rupees in each year shall be set apart and applied to the revival and improvement of literature, and the encouragement of the learned natives of India, and for the introduction and promotion of a knowledge of the sciences among the inhabitants of the British territories in India; and that any schools, public lectures, or other institutions, for the purposes aforesaid, which shall be founded at the presidencies of Fort William, Fort Saint George, or Bombay, or in any other parts of the British territories in India, in virtue of this Act, shall be governed

by such regulations as may from time to time be made by the said Governor General in Council; subject nevertheless to such powers as are herein vested in the said board of commissioners for the affairs of India, respecting colleges and seminaries: Provided always, that all appointments to offices in such schools, lectureships, and other institutions, shall be made by or under the authority of the governments within which the same shall be situated.

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XLIX. And whereas no sufficient provision hath hitherto been made for the maintenance and support of a church establishment in the British territories in the East Indies and other parts within the limits of the said company's charter: Be it therefore enacted, that in case it shall please his Majesty, by his royal letters patent under the great seal of the said United Kingdom, to erect, found, and constitute one bishoprick for the whole of the said British territories in the East Indies, and parts aforesaid, one archdeaconry for the presidency of Fort William in Bengal, one archdeaconry for the presidency of Fort Saint George on the coast of Coromandel, and one archdeaconry for the presidency and island of Bombay on the coast of Malabar, and from time to time to nominate and appoint a bishop and archdeacons to such bishoprick and archdeaconries respectively, the court of directors of the said company during such time as the said territorial acquisitions shall remain in the possession of the said company shall and they are hereby required to direct and cause to be paid certain established salaries to such bishop and archdeacons respectively; (that is to say,) from and out of the revenues of the said presidency of Fort William in Bengal to the said bishop, five thousand pounds by the year, at an exchange of two shillings for the Bengal current rupee; and to the said archdeacon of the said presidency of Fort William, two thousand pounds by the year, at the like exchange; and from and out of the revenues of the presidency of Fort Saint George, on the coast of Coromandel, to the archdeacon of the said presidency of Fort Saint George, two thousand pounds by the year, at an exchange of eight shillings for the pagoda at Madras; and from and out of the revenues of the presidency and island of Bombay, on the coast of Malabar, to the archdeacon of the said presidency and island of Bombay, two thousand pounds by the year, at an exchange of two shillings and three pence for the Bombay rupee.

If a bishop and three archdeacons shall be established in India by his Majesty's letters patent,

their salaries shall be paid by the company.

L. And be it further enacted, that the said salaries shall take place and commence from and after the time at which such persons as shall be appointed to the said offices respectively shall take upon them the execution of their respective offices; and that all such salaries shall be in lieu of all fees of office, perquisites, emoluments, and advantages whatsoever; and that no fees of

Salaries to commence on taking office, and to cease when functions cease, &c.

office, perquisites, emoluments, or advantages whatsoever shall be accepted, received, or taken in any manner or on any account or pretence whatsoever, other than the salaries aforesaid; and that such bishop and archdeacons respectively shall be entitled to such salaries so long as they shall respectively exercise the functions of their several offices in the East Indies, or parts aforesaid, and no longer.

Bishop to have no jurisdiction or functions, except such as may be limited by letters patent.

LI. PROVIDED always, and be it further enacted, that such bishop shall not have or use any jurisdiction, or exercise any episcopal functions whatsoever, either in the East Indies or elsewhere, but only such jurisdiction and functions as shall or may from time to time be limited to him by his Majesty by letters patent under the great seal of the United Kingdom.

His Majesty may grant to the bishop by letters patent such ecclesiastical jurisdiction as he may think necessary.

LII. AND be it further enacted, that it shall and may be lawful for his Majesty from time to time, if he shall think fit, by his letters patent under the great seal of the said United Kingdom, to grant to such bishop so to be nominated and appointed as aforesaid such ecclesiastical jurisdiction, and the exercise of such episcopal functions, within the East Indies and parts aforesaid, as his Majesty shall think necessary for the administering holy ceremonies, and for the superintendence and good government of the ministers of the church establishment, within the East Indies and parts aforesaid, any law, charter, or other matter or thing to the contrary notwithstanding.

Warrant for letters patent to be countersigned by the president of the board.

LIII. AND be it further enacted, that when and as often as it shall please his Majesty to issue any letters patent respecting any such bishoprick or archdeaconry as aforesaid, or for the nomination or appointment of any person thereto, the warrant for the bill in every such case shall be countersigned by the president of the board of commissioners for the affairs of India.

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33 Geo. 3. c. 52. s. 39.

LXXIX. AND whereas by the said Act of the Parliament of Great Britain of the thirty-third year of his Majesty's reign, it is enacted, that the several orders and proceedings of the presidencies of Fort William, Fort Saint George, and Bombay, should, previously to their being published and put in execution, be signed by the chief secretary to the council of the presidency, by the authority of the governor general in council, or governors in council, as the case may be: And whereas inconvenience may arise to the public service, unless some other person, besides such chief secretary, be authorized to sign such orders and proceedings: Be it therefore further enacted, that all such orders and proceedings of the several governments and presidencies in the East Indies and parts aforesaid shall or may, previously to their being published or put in execution, be signed in manner aforesaid, either by the chief secretary to the government of the said presidency, or in the absence of such chief secretary by the principal secretary of the department of such presidency

Proceedings at the presidencies to be signed by the principal secretary of the department in the absence of the

to which such orders and proceedings relate, anything to the contrary, notwithstanding.[a] chief secretary.

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LXXXII. And whereas a strict adherence to the provisions contained in the said Act made in the thirty-third year of his present Majesty's reign, in respect to the filling up and supplying vacancies in the civil service of the said company, has been found impracticable, without detriment to the public service, or injury to the just claims and meritorious exertions of individuals: And whereas a modification of the said Act has been in part adopted in the Act of the forty-seventh of his present Majesty, relative to the scholars educated at Hertford College: Be it therefore enacted, that from and after the passing of this Act any office, place, or employment, the salary and perquisites whereof shall exceed the sum of fifteen hundred pounds, may be granted to and conferred upon the said servants who shall have been actually resident in India in the said company's service for the space of four years at the least in the whole antecedent to such vacancy; and if the salary, perquisites, and emoluments of any office, place or employment shall exceed the sum of three thousand pounds per annum, such office may be conferred upon any of the said servants who shall have been actually resident in India seven years at least in the whole; and if the salary, perquisites, and emoluments of any office, place, or employment shall exceed four thousand pounds per annum, such office, including that of the council, may be granted to or conferred upon any of the said servants who shall have been actually resident in India in the company's service for the space of ten years at the least in the whole.

33 Geo. 3 c. 52.

47 Geo. 3, sess. 2. c. 68.

Places of more than 1,500*l.* per annum may be given after four years' service in India; places of more than 3,000*l* per annum after seven years; and places of more than 4,000*l.* per annum (including the council) after ten years.

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LXXXIV. And whereas by the said Act of the Parliament of Great Britain of the thirty-third year of his Majesty's reign it is enacted, that no person who shall hold a military station in the service of the said company, being under the rank of commander-in-chief of the forces, and who having departed from India by leave of the governor general in council, or governor in council, shall not return to India within five years next after such departure, shall be entitled to any rank, or be capable of again serving in India either in the European or native corps of troops, unless it shall be proved to the satisfaction of the said court of directors, and the board of commissioners for the affairs of India, that such absence was occasioned by sickness or infirmity, or some inevitable accident: And whereas inconvenience to the military service of the said company has been found to arise in certain cases

33 Geo. 3. c. 52 s. 70.

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[a] See Act No. II of 1834.

Certain officers may return to India, after five years' absence, with consent of the directors and the board, though their absence may not have been occasioned by sickness, infirmity, or inevitable accident.

from the said provision: Be it therefore enacted, that it shall and may be lawful for the said court of directors, with the approbation of the said board of commissioners, to permit any military officer, being of the rank of a general officer or colonel commanding a regiment, or being a lieutenant colonel commandant of a regiment, who having departed from India with such leave as aforesaid shall not have returned to India within five years from the time of such departure, to have his rank and to be capable of again serving in India, although such absence may not have been occasioned by sickness or infirmity, or any inevitable accident, anything in the said Act contained to the contrary notwithstanding.

Restored civil servants to take precedence according to their seniority at the time of their departure from India.

LXXXV. And be it further enacted, that when and as often as any person having held any civil station in India in the service of the said company, and having departed from India by leave of the governor general in council, or governor in council, shall be restored to the said company's service after an absence of five years from the time of such departure, such person from and after such restoration shall take rank and precedence only according to the time he shall have passed in the service of the said company at the period of his departure from India; and on his return to India, if any other civil servant or servants at the settlement to which he shall belong shall have then passed a greater or the like length of time in the service of the said company, as the person so restored had passed when he left India, the person so restored shall be placed and take rank immediately below such other civil servant or servants, any matter or thing to the contrary notwithstanding.

33 Geo. 3 c. 52. s 56.

LXXXVI. And whereas by the said Act of the Parliament of Great Britain of the thirty-third year of his present Majesty's reign, it is enacted, that all the civil servants of the said united company in India under the rank or degree of member of council shall have and be entitled to precedence in the service of the said company at their respective stations according to the seniority of their appointment: And whereas the several governments of the said company are often prevented from appointing meritorious servants of the said company to be members of courts, boards, and other official establishments, where offices or employments are exercised by several servants of the said company collectively, lest by such appointment one or more members of such court, board, or other establishment should be superseded: Be it therefore enacted, that it shall and may be lawful for any governor general or governor in council of the said company, if he shall think proper, upon application in writing for that purpose by any civil servant of the said company desirous of being appointed a member of any such court, board, or other establishment, by special order to direct that such servant of the said company, on being appointed to any office or employment in any such court, board, or other

Servants of the company may be appointed to boards, courts, or other official establishments, though they do not take precedence according to

establishment, shall take precedence at or in such court, board, or other establishment, according to the seniority of his appointment as a member of such court, board, or other establishment, although such civil servant in respect of whom such order shall be made may thereby not take precedence at or in such court, board, or other establishment, according to the seniority of his appointment to the service of the said company; and such civil servant shall thereupon take precedence at such court, board, or other establishment accordingly; the said Act or any other matter or thing to the contrary notwithstanding.

Seniority of services.

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LXXXIX. And whereas by a certain Act passed in the thirteenth year of his present Majesty's reign, intituled "An Act for establishing certain regulations for the better management of the affairs of the East India company, as well in India as in Europe," it is enacted that the salaries of the governor general and council of Fort William, and of the chief justice and judges of the supreme court of judicature at Fort William in Bengal, shall take place and commence, in respect to all such persons who shall be resident in Great Britain at the time of their appointment, upon and from the day on which such persons shall embark from Great Britain; and that the salaries of all such persons who shall at the time of their appointment be resident in India, shall commence from and after their respectively taking upon them the execution of their offices: And whereas by an Act passed in the fortieth year of his Majesty's reign, intituled "An Act for establishing further regulations for the government of the British territories in India, and the better administration of justice within the same," a similar provision is made in respect to the salaries of the chief justice and judges of the supreme court of judicature at Madras: And whereas by an Act passed in the thirty-seventh year of his Majesty's reign, intituled: "An Act for the better administration of justice at Calcutta, Madras, and Bombay, and for preventing British subjects from being concerned in loans to the native princes in India," a similar provision is made in respect to the salary of the recorder of the court of judicature at Bombay: And whereas no such provision has been made respecting the commencement of the salaries of the governor or council of Fort St. George, or of the governor or council of the town and island of Bombay, or of the governor of Prince of Wales Island, or of the recorder there: And whereas it is expedient that a general and moderate provision should be made in respect of all the said offices, and of others who may happen to be in the United Kingdom at the time of their appointments: Be it therefore further enacted, that so much of the said Acts of the thirteenth, thirty-seventh, and fortieth years of his Majesty's reign, as relates to the

Recital of 13 Geo. 3. c. 63. s. 22.

39 & 40 Geo. 3. c. 79. s. 7.

37 Geo. 3. c. 142. s. 20.

Recited Acts repealed as to commence-

ment of salaries. Salaries when to commence.

commencement of salaries, shall be and the same is hereby repealed: And that from and after the passing of this Act the salaries of the several officers herein-before mentioned shall commence from and after their respectively taking upon them the execution of their offices; and the said court of directors shall and they are hereby required to pay and advance to all and singular the officers and persons herein-after mentioned, who shall be resident in the United Kingdom at the time of their respective appointments, for the purpose of defraying the expenses of their equipments and voyage, such sums of money as are set against the names of such officers and persons respectively; that is to say,

Passage money, &c. of certain officers fixed

To the governor general of Fort William in Bengal	Five thousand pounds:
To each of the members of council there .	One thousand two hundred pounds:
To the commander in chief of all the forces in India	Two thousand five hundred pounds:
To the chief justice of the supreme court at Fort William . . .	One thousand five hundred pounds:
To each of the puisne judges there . .	One thousand pounds:
To the governor of Fort Saint George .	Three thousand pounds:
To each of the members of council there .	One thousand pounds:
To the commander in chief there . .	Two thousand pounds:
To the chief justice of the supreme court there	One thousand two hundred pounds:
To each of the puisne judges there .	One thousand pounds:
To the governor of Bombay . . .	Two thousand five hundred pounds:
To each of the members of council there .	One thousand pounds:
To the commander in chief there . .	One thousand five hundred pounds:
To the recorder there	One thousand pounds:
. . . . .	. . . . .
To the bishop	One thousand two hundred pounds:
To each of the archdeacons . . .	Five hundred pounds.

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XCIII. And whereas it is reasonable that the said court of directors should have power to grant allowances in the nature of superannuations to such of their officers and servants in England, as from age or infirmity may no longer be qualified for the execution of their several offices

or employments: Be it therefore enacted, that it shall and may be lawful to and for the said court of directors to make allowances, compensations, remunerations, or superannuations to the officers and servants of the said company in England, subject to the restrictions and according to the conditions and proportions following; (that is to say,) where it shall be proved to the satisfaction of the said court of directors that any such officer or servant, being under sixty years of age, shall be incapable from infirmity of mind or body to discharge the duties of his office, in such case, if he shall have served with diligence and fidelity in the service of the said company for ten years, it shall and may be lawful to grant him, by way of superannuation, any annual sum not exceeding one-third of the salary and allowed emoluments of his office; if above ten years and less than twenty, any such sum not exceeding one-half of such salary and allowed emoluments; if above twenty years, any such sum not exceeding two-thirds of such salary and allowed emoluments; if such officer or servant shall be above sixty years of age, and he shall have served fifteen years or upwards, it shall and may be lawful, without proof of infirmity of mind or body, to grant him, by way of superannuation, any annual sum not exceeding two-thirds of the salary and allowed emoluments of his office; if sixty-five years of age or upwards, and he shall have served forty years or upwards, any such sum not exceeding three-fourths of such salary and allowed emoluments; if sixty-five years of age or upwards, and he shall have served fifty years or upwards, any such sum not exceeding the whole of such salary and allowed emoluments; all which allowances so to be made shall be charged in the books of account of the said company to the debit of that branch of the company's affairs to which the said officers or servants may respectively belong; anything in the said Act of the thirty-third year of his Majesty's reign to the contrary notwithstanding.

Court of directors may grant superannuations to company's servants in England.

XCIV. Provided always, and be it further enacted, that an account of all allowances, compensations, remunerations, and superannuations, which shall be granted either to the officers or servants of the said board of commissioners or to the officers or servants of the said company as aforesaid during the preceding year, shall be laid before Parliament within fifteen days after the next meeting thereof.

Account of superannuations to be laid before Parliament.

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XCVI. And whereas doubts have been entertained whether the several governments of the said company have sufficient power in all cases to make laws and regulations and Articles of War for the order and discipline of officers and soldiers, being natives of the East Indies or other places within the limits of the said company's charter, in the service of the said company, and for the administration of justice by courts martial to be holden upon such officers and

The governments in India may make laws, regulations, and Articles of War, for the native troops, and for holding courts martial.

soldiers; and it is expedient that such doubts should be removed: Be it therefore enacted and declared, that the several governments of Fort William, Fort Saint George, and Bombay have and shall, during the continuance of the term hereby granted to the said company, be deemed and taken to have full power and authority to make all such laws and regulations and Articles of War as they may think fit, for the order and discipline of all officers and soldiers, natives of the East Indies or other places within the limits of the said company's charter, in their respective services, and for the administration of justice by courts martial to be holden on such native officers and soldiers, and for the constitution and manner of proceeding of such courts martial, and for all other purposes relating to or in any manner concerning such native officers and soldiers, in as full and ample a manner as the said governments respectively may make any other laws or regulations for the government of the natives of the several territories subject to the said presidencies respectively, any Act of Parliament or other matter or thing to the contrary notwithstanding: Provided always, that all laws, regulations, and Articles of War hereafter to be made respecting any of the matters aforesaid, whereby the rights, persons, or property of any such native officers or soldiers may be affected, shall be made and promulgated in every respect in the same manner as other regulations affecting the rights, persons, or property of natives or other individuals amenable to the provincial courts of the presidency of Fort William in Bengal are directed to be made by virtue of an Act passed in the thirty-seventh year of his Majesty's reign, intituled "An Act for the better administration of justice at Calcutta, Madras, and Bombay, and for preventing British subjects from being concerned in loans to the native princes in India."

37 Geo. 3. c. 142.

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Admiralty jurisdiction of King's courts extended.

CX. And whereas the courts established by the said united company have no jurisdiction over crimes maritime, and doubts have been entertained whether the admiralty jurisdiction of his Majesty's courts at Calcutta, Madras, and Bombay extends to any persons but those who are amenable to their ordinary jurisdiction, by reason whereof failures of justice may arise: Be it therefore enacted, that it shall and may be lawful for his Majesty's courts at Calcutta, Madras, and Bombay exercising admiralty jurisdiction to take cognizance of all crimes perpetrated on the high seas by any person or persons whatsoever, in as full and ample a manner as any other court of admiralty jurisdiction established by his Majesty's authority in any colony or settlement whatsoever belonging to the crown of the said United Kingdom.

CXI. And whereas doubts have arisen whether the advocate general or other principal law officer of the said company, at any of the said company's

presidencies, is by law authorized to exhibit to the respective courts of judicature at any of the said presidencies, for and on behalf of his Majesty, informations in the nature of actions at law or bills in equity for or in respect of any cause or causes of action, debts, dues, demands, accounts, reckonings, sum or sums of money, stores, goods, chattels, or any other matter, cause, or thing whatsoever, which may have arisen or accrued, or which may arise or accrue to his Majesty: For remedy thereof, be it further enacted, that it shall and may be lawful to and for the advocate general or other principal law officer of the said company for the time being, at each of the said company's presidencies respectively, for and on behalf of his Majesty, his heirs and successors, to exhibit to the respective supreme courts of judicature of the said company's presidencies of Fort William and Madras, or to the recorder's court at Bombay, or the court of judicature at Prince of Wales Island, any information or informations in the nature of an action or actions at law, or of a bill or bills in equity, as occasion shall require, against any person or persons residing within or being amenable to the jurisdiction of the said courts respectively, for or in respect of any cause or causes of action, debts, dues, demands, accounts, reckonings, sum or sums of money, stores, goods, chattels, or any other matter, cause, or thing whatsoever, as fully and effectually to all intents and purposes as his Majesty's attorney general for the time being is by law authorized to exhibit any such information or informations in any of his Majesty's courts of law or equity in this realm; and that thereupon such proceedings shall be had, as far as the circumstances of the case and the course and practice of the said courts of judicature at the said several presidencies will admit, as are had upon any such informations exhibited by his Majesty's attorney general in any of his Majesty's courts of law or equity in this realm.

Advocate general of the company may file informations in King's courts, for debts due to his Majesty.

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CXXIV.[a] And be it further enacted, that all suits and prosecutions for any thing done under or by virtue of this Act shall be commenced within the space of three years after the cause of complaint shall have arisen, or being done in the United Kingdom, in the absence of any person beyond sea aggrieved thereby, then within the space of three years next after the return of such person to the United Kingdom.

Limitation of suits.

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[a Section 124 is repealed, so far as it applies to British India, Act IX of 1871.]

55 GEO. III. A. D. 1814-15.

CHAPTER LXXXIV.

An Act to amend so much of an Act of the Thirty-third Year of His present Majesty as relates to fixing the Limits of the Towns of Calcutta, Madras, and Bombay; and also so much of an Act of the Thirty-ninth and Fortieth Year of His present Majesty as relates to granting Letters of Administration to the Effects of Persons dying intestate within the several Presidencies in the East Indies, to the Registrar of the Ecclesiastical Courts; and to enable the Governor in Council of the said Presidencies to remove Persons not being British Subjects; and to make Provision for the Judges in the East Indies in certain Cases. [*14th June 1815.*]

33 Geo 3. c. 52. s 159.

WHEREAS by an Act of the Parliament of Great Britain made and passed in the thirty-third year of his present Majesty's reign, intituled "An Act for continuing in the East India company, for a further term, the possession of the British territories in India, together with their exclusive trade, under certain limitations, for establishing further regulations for the government of the said territories, and the better administration of justice within the same, for appropriating to certain uses the revenues and profits of the said company, and for making provision for the good order and government of the towns of Calcutta, Madras, and Bombay," it was amongst other things enacted, that if any question should arise touching or concerning the true limits and extent of the towns and factories of Calcutta, Madras, and Bombay respectively, or any of them, the same should be enquired into by the governor general in council at Fort William, in respect to the limits and extent of Calcutta, and by the governor in council at Fort Saint George in respect to the limits and extent of Madras, and the governor in council at Bombay in respect to the town of Bombay; and that such limits as the said respective governments by order in council should declare and prescribe to be the limits of the said towns and factories respectively should be held, deemed, and taken in law as the true limits of the same, any custom or usage to the contrary notwithstanding: And whereas by reason of the increase of the population of the towns of Calcutta, Madras, and Bombay, it is expedient that the several governments of Fort William, Fort Saint George, and Bombay in the East Indies should be further empowered, in manner herein after mentioned, to extend from time to time the limits of the said several towns: May it therefore please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that it shall and may be lawful to and

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for the governor general in council at Fort William in Bengal, from time to time, as circumstances shall in their judgment require, to extend the limits of the town of Calcutta; and to and for the governor in council at Fort Saint George, from time to time, as circumstances shall in their judgment require, to extend the limits of the town of Madras; and to and for the governor in council at Bombay, from time to time as circumstances shall in their judgment require, to extend the limits of the town of Bombay; and that such extended limits as the said respective governments shall from time to time, in and by their respective orders in council, or by their regulations, declare and prescribe as aforesaid to be the limits of the said towns respectively, shall, from the time of publishing such orders in council or regulations by proclamation at the respective presidencies, be held, deemed, and taken, as and for the true limits of the same; and from time to time, as any extension shall be made thereof, all jurisdictions, powers, and authorities, which, by virtue of any Act or Acts of Parliament, or any charter or charters, or any law or usage, shall or may be bounded or regulated by the limits of the said towns respectively, shall thenceforth be bounded and regulated by the limits of the said towns respectively, as they shall be declared and prescribed from time to time in manner herein-before mentioned; any custom, law, or usage to the contrary notwithstanding: Provided always, that no order in council or regulation hereafter to be made, and declaring or prescribing the limits of any of the said towns, shall be valid or effectual, until it shall have been sanctioned or shall have been authorized to be made and passed by the court of directors of the united company of merchants of England trading to the East Indies, with the approbation of the board of commissioners for the affairs of India.

Power to extend limits of the towns of Calcutta, Madras, and Bombay.

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56 GEO. III. A. D. 1816.

Chapter LXXXII.

An Act to render valid the judicial Acts of Surrogates of Vice Admiralty Courts abroad during Vacancies in Office of Judges of such Courts.[a] [*25th June 1816.*]

Whereas it is requisite that due validity should be given to the judicial acts of surrogates who have executed the offices of judges in the courts of vice admiralty established in his Majesty's plantations and colonies, during vacancies occasioned by the deaths or resignation or other removals of

[[a] Repealed, save as regards Her Majesty's possessions in India, 26 & 27 Vict., c. 24, s. 24.]

the said judges, or who also shall hereafter execute the same during such vacation: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that all judicial acts of surrogates having been appointed to act as judges during such vacancies, either by judges of the said courts previously to their removal, or in default of such appointment by the governors of the plantations and colonies in which such courts shall be, shall have the same force and validity, and shall be subject to the same course of appeal, as if the said acts had been done by the authority of judges regularly appointed by the lords commissioners of the Admiralty.

Acts of surrogates appointed by judges or by governors of plantations and colonies, shall be valid, &c.

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59 GEO. III. A. D. 181

Chapter LX.

An Act to permit the Archbishops of Canterbury and York and the Bishop of London for the Time being to admit Persons into Holy Orders specially for the Colonies. [*2nd July 1819.*]

Whereas it is expedient that the archbishops and bishops of this realm should from time to time admit into holy orders persons specially destined for the cure of souls in his Majesty's foreign possessions, although such persons may not be provided with the title required by the canon of the Church of England of such as are to be made ministers: And whereas it will greatly tend to the advancement of religion within the same that due provision shall be regularly made for a supply of persons properly qualified to serve as parsons, vicars, curates, or chaplains: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act it shall be lawful for the archbishop of Canterbury, the archbishop of York, or the bishop of London for the time being, or any bishop specially authorized and empowered by any or either of them, to admit into the holy orders of deacon or priest any person whom he shall upon examination deem duly qualified, specially for the purpose of taking upon himself the cure of souls, or officiating in any spiritual capacity in his Majesty's colonies or foreign possessions and residing therein; and that a declaration of such purpose and a written engagement to perform the same under the hand of such person, being deposited in the hands of such archbishop or bishop, shall be held to be a

Archbishop of Canterbury or York, or bishop of London, or any bishop specially authorized by any of them, may ordain specially for the colonies

The fact to be

sufficient title with a view to such ordination; and that in every such case it shall be distinctly stated in the letters of ordination of every person so admitted to holy orders that he has been ordained for the cure of souls in his Majesty's foreign possessions.

stated in the letters of ordination.

II. Provided always, and be it further enacted by the authority aforesaid, that no person so admitted into the holy orders of deacon or priest for the purpose of taking upon himself the cure of souls or officiating in any spiritual capacity in his Majesty's foreign possessions shall be capable of having, holding, or enjoying, or of being admitted to any parsonage, vicarage, benefice, or other ecclesiastical promotion or dignity whatsoever within the United Kingdom of Great Britain and Ireland, or of acting as curate therein, without the previous consent and approbation in writing of the bishop of the diocese, under his hand and seal, in which any such parsonage, vicarage, benefice, or other ecclesiastical promotion or dignity shall be locally situated, nor without the like consent and approbation of such one of the said archbishops or bishop of London, by whom or by whose authority such person shall have been originally ordained, or in case of the demise or translation of such archbishop or bishop, of his successor in the same see: Provided always, that no such consent and approbation shall be given by any such archbishop or bishop of London, unless the party applying for the same shall first produce a testimony of his good behaviour during the time of his residence abroad from the bishop in whose diocese he may have officiated, or, in case there be no bishop, from the governor in council of the colony in which he may have been resident, or from his Majesty's principal secretary of state for the colonial department.

Incapacity of persons so ordained to hold a living, &c in Great Britain or Ireland without the consent of the bishop of the diocese, &c.

Consent not to be given without certificate of good behaviour abroad.

III. And be it further enacted, that from and after the passing of this Act no person who shall have been admitted into holy orders by the bishops of Quebec, Nova Scotia, or Calcutta, or by any other bishop or archbishop than those of England or Ireland, shall be capable of officiating in any church or chapel of England or Ireland without special permission from the archbishop of the province in which he proposes to officiate, or of having, holding, or enjoying, or of being admitted to any parsonage or other ecclesiastical preferment in England or Ireland, or of acting as curate therein, without the consent and approbation of the archbishop of the province, and also of the bishop of the diocese in which any such parsonage or ecclesiastical preferment or curacy may be situated.

The like incapacity in the case of persons ordained by the bishops of Quebec, Nova Scotia, or Calcutta, &c.

IV. Provided always, that no person who after the passing of this Act shall have been ordained a deacon or priest by a colonial bishop, who at the time of such ordination did not actually possess an episcopal jurisdiction over some diocese, district, or place, or was not actually residing within such division,

Persons ordained by a colonial bishop not possessing or residing in

a diocese, &c. not to be capable of holding preferment, or acting as a minister of the Established Church.

district or place, shall be capable in any way, or on any pretence whatever, of at any time holding any parsonage or other ecclesiastical preferment, within his Majesty's dominions, or of being a stipendiary curate or chaplain, or of officiating at any place, or in any manner, as a minister of the Established Church of England and Ireland.

Admissions to benefices, and appointments to curacies, contrary hereto shall be void.

V. And be it further enacted, that all admissions, institutions, and inductions to benefices in the Church of England or Church of Ireland, and all appointments to act as curates therein, which shall be made contrary to the provisions of this Act, shall be to all intents and purposes null and void: Provided always, that nothing herein shall be construed to make void any admission, institution, or induction to any benefice, or any appointment as curate, which shall have been made previous to the passing of this Act.

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1 GEO. IV. A. D. 1820.

Chapter CI.

An Act to enable the Examination of Witnesses to be taken in India in support of Bills of Divorce on account of Adultery committed in India.

[*24th July 1820.*]

Whereas much inconvenience hath arisen to his Majesty's subjects residing in India and petitioning either House of Parliament for bills for the dissolution of marriages by reason of acts of adultery committed in India, from the difficulty of producing in England the evidence necessary to substantiate the allegations of such bills: And whereas, by reason of the religious scruples of several of the natives of India, it is impossible to prevail upon them to come to England for the purpose of being examined as witnesses at the bar of either House of Parliament: And whereas, for remedy of the said inconvenience, it is expedient that provision shall be made for examining witnesses in India, and for duly transmitting their depositions to such Houses of Parliament: Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that whensoever and as often as either House of Parliament, upon the petition of any party praying for a bill for the dissolution of any marriage, and stating that the witnesses necessary to substantiate the allegations of such bill are resident in India, shall see cause to direct that the examinations of such witnesses shall be taken in India, the speaker of such House of Parliament shall thereupon issue his warrant or warrants to the judges

Speaker of either House of Parliament may issue his warrant for the examination of witnesses in India in cases of bills of divorce.

of the Supreme Court of Judicature of the presidency of Calcutta, the judges of the Supreme Court of Judicature of the Presidency of Madras, the recorder of the presidency of Bombay, or the judges of the Supreme Court of Judicature of the island of Ceylon, respectively, accordingly as the witnesses proposed to be examined shall be resident within any one or more of the said presidencies or the said island, for the examination upon oath of all such witnesses as shall be produced before them touching the allegations of such bill and touching any notices or other matters which shall in such warrant be specified; and that in all cases where such warrants shall be so issued, duplicates of such warrants, together with copies of such bill, shall be transmitted by different ships, at the desire of the agent of the party or parties soliciting such bill, to the persons to whom such warrants shall be directed.

Judges in India, on receipt of such warrant, shall examine such witnesses, &c.

II. And be it enacted, that in all cases immediately upon the receipt of such warrant or warrants the judges or recorder to whom the same shall have been directed shall appoint some time or times with all convenient speed for the examination of witnesses and receiving other proofs touching the allegations of such bill and in opposition thereto, and touching such notices and other matters as shall in such warrant have been specified, and in the meantime shall cause such public notice to be given of such examination, and shall issue such summons or other process as may be requisite for the attendance of witnesses and of the agents or counsel of all or any of the parties respectively, and of such other witnesses as after mentioned, and to adjourn from time to time as occasion may require; and such examinations as aforesaid shall be then and there openly and publicly taken vivâ voce upon the respective oaths of witnesses, and the oaths of skilful interpreters, administered according to the forms of their several religions, and shall, by some sworn officer of the court, be reduced into writing; and that two copies thereof shall be made; and that the judges or recorder, before whom such examination shall have been taken, shall certify the same under the official seal of their several courts, together with a declaration of such judges or recorder, that such examinations have in their or his judgment been fairly and properly conducted, and that all such witnesses had been produced as were fit to be produced for the purpose of ascertaining the whole truth, so far as the attendance of such witnesses could be reasonably obtained; and shall transmit the same by different ships to the speaker of either House of Parliament, under whose warrant such examination shall have been taken; and every such examination so returned to the speaker of either House of Parliament as aforesaid shall be competent and admissible evidence, and shall be allowed and read in both Houses of Parliament, or either of them respectively, as occasion may require, any law or usage to the contrary notwithstanding.

Two copies of such examinations shall be certified and transmitted to the speaker of either House of Parliament; and shall be admissible in evidence.

Judges may

III. And be it further enacted, that it shall and may be lawful for such judges

ask such questions and require such further witnesses to be produced, &c. as shall be necessary.

or recorder, upon any such examination, to ask any such questions of any witness who shall be produced before them or him, and to require such further witnesses resident within such presidency or island respectively to be produced, as shall appear fit and necessary for the due investigation of the allegations of such bill, or of any other matters in such warrants specified; and to allow such attendance by counsel, and such cross-examination of witnesses, as shall be deemed by such judges and recorder to be fit and proper for the purpose of such investigation; and for such purpose, if necessary, to name some proper person or persons to attend as counsel and agent in opposition to such bill, and to procure any evidence which may be necessary for the purpose of such opposition, to the end that a full and fair disclosure may be made of all the facts and circumstances of the case.

Proceedings not to be discontinued by prorogation, &c of Parliament, where such warrants have been issued.

IV. And whereas by the usage and custom of Parliament no proceedings by bill in Parliament have continuance from one session to another: And whereas it would be impracticable that the examination taken upon such warrant as aforesaid could ever be returned within the ordinary length of a session of Parliament: Be it enacted by the authority aforesaid, that from and after the passing of this Act no proceedings in Parliament touching any bill for the dissolution of marriage, wherein such warrant as aforesaid shall have been issued, shall be discontinued by any prorogation or dissolution of Parliament, until the examination therein directed shall have been returned; but that such proceedings may be resumed and proceeded upon in a subsequent session or in a subsequent Parliament in either House of Parliament in like manner and to all intents and purposes as they might have been in the course of one and the same session, any law, usage, or custom to the contrary notwithstanding.

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4 GEO. IV. A. D. 1823.

Chapter LXXI.

An Act for defraying the Charge of Retiring Pay, Pensions, and other Expences of that Nature, of His Majesty's Forces serving in India; for establishing the Pensions of the Bishop, Archdeacons, and Judges; for regulating Ordinations; and for establishing a Court of Judicature at Bombay.

[*11th July 1823.*]

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Pensions to bishop and archdeacons.

III. And be it further enacted, that it shall and may be lawful for his Majesty, his heirs and successors, in manner in the said Act mentioned, to grant to any such bishop who shall have exercised in the East Indies or parts

aforesaid for ten years the office of bishop or archdeacon, and to any such archdeacon who shall have exercised in the East Indies or parts aforesaid for ten years the office of archdeacon, pensions not exceeding such sums respectively as his Majesty by the said Act of the fifty-third year of the reign of his late Majesty is empowered to grant to any such bishop or archdeacon.

Where chaplains are appointed archdeacons, their residence as chaplains shall count towards pension in a certain proportion.

IV. Provided also, and be it further enacted, that if any person residing any time in the East Indies or parts aforesaid, as one of the chaplains of the said united company, shall have been or shall be appointed to the office of such archdeacon as aforesaid, and shall have resided in the East Indies or parts aforesaid as such archdeacon seven years, the period of residence of such person as chaplain shall be accounted and taken as and for a residence as such archdeacon, in the proportion of three years' residence as such chaplain to two years' residence as such archdeacon: Provided also, that nothing herein contained shall extend or be construed to extend to prejudice the right of any person being or having been a chaplain of the said united company to any benefit he may be entitled to as under or by virtue of any regulation now in force or hereafter to be made by the said united company or their court of directors, nor to prejudice or affect the right of the said united company or their court of directors to make, repeal, vary, or alter any regulation or regulations respecting the chaplains of the said united company, or the pay or allowances, pensions or retirements of such chaplains, which the said united company or their court of directors may now lawfully make, repeal, vary, or alter.

Residence and expence of visitations of bishop to be provided and defrayed by the company.

V. And whereas it is proper that a suitable house of residence should be provided for the said bishop, and that the expences of his visitations should be defrayed by the said company: Be it therefore further enacted, that it shall and may be lawful for the said company, and they are hereby required, to provide a suitable house at Calcutta for the residence of the said bishop; and that the expence of the visitations to be made by the said bishop from time to time shall be defrayed by the said company out of the revenues of the British territories in India: Provided always, that no greater sum on account of providing such house, or of such visitations, be at any time issued, than shall from time to time be defined and settled by the court of directors of the said company with the approbation of the commissioners for the affairs of India, any law or statute to the contrary notwithstanding.

Power to the

VI. And whereas doubts have arisen whether the bishop of Calcutta, in conferring holy orders, is subject to the several provisions and limitations established by the laws of this realm or canons ecclesiastical, as to the titles of the persons to be ordained, and as to the oaths and subscriptions to be by such persons taken and made: Be it further declared and enacted, that it shall and

bishop of Calcutta to admit persons to holy orders for cure of souls in his diocese.

may be lawful for the bishop of Calcutta for the time being to admit into the holy orders of deacon and priest respectively any person whom he shall, upon examination, deem duly qualified, specially for the purpose of taking upon himself the cure of souls, or officiating in any spiritual capacity within the limits of the said diocese of Calcutta, and residing therein; and that a declaration of such purpose, and a written engagement to perform the same, under the hand of such person, being deposited in the hands of such bishop, shall be held to be a sufficient title with a view to such ordination; and that in every such case it shall be distinctly stated in the letters of ordination of every person so admitted to holy orders, that he has been ordained for the cure of souls within the limits of the said diocese of Calcutta only; and that unless such person shall be a British subject of or belonging to the United Kingdom of Great Britain and Ireland, he shall not be required to take and make the oaths and subscriptions which persons ordained in England are required to take and make: Provided always, that nothing herein contained shall be construed to repeal or affect the provisions of an Act passed in the fifty-third year of the reign of his late Majesty King George the Third, intituled "An Act for continuing in the East India company for a further term the possession of the Britith territories in India, together with certain exclusive privileges, for establishing further regulations for the government of the said territories, and the better administration of justice within the same, and for regulating the trade to and from the places within the limits of the said company's charter," or any letters patent issued by his late Majesty or by his present Majesty, their heirs and successors, in virtue of the said Act or of their lawful prerogative.

Saving of provisions of 53 Geo. 3. c. 155, &c.

VII. And whereas his late Majesty King George the Second did, by his letters patent bearing date at Westminster the eighth day of January in the twenty-sixth year of his reign, grant unto the united company of merchants of England trading to the East Indies his royal charter, thereby, amongst other things, constituting and establishing courts of civil, criminal, and ecclesiastical jurisdiction at the united company's respective settlements at Madras-patnam, Bombay or the island of Bombay, and Fort William in Bengal: And whereas the said charter, in as far as it respects the administration of justice at Bombay, has been altered and changed by virtue of an Act passed in the thirty-seventh year of his late Majesty King George the Third, intituled "An Act for the better administration of justice at Calcutta, Madras, and Bombay, and for preventing British subjects from being concerned in loans to native princes in India," and by letters patent granted by his said late Majesty King George the Third, and bearing date at Westminster on the twentieth day of February in the thirty-eighth year

37 Geo 3. c. 142.

of his reign, amongst other things, for the establishment of a court called "The Court of the Recorder of Bombay:" And whereas the said charter of the eighth day of January in the twenty-sixth year of the reign of his Majesty King George the Second, so far as it respects the administration of justice at Fort William in Bengal, has been altered and changed by virtue of an Act passed in the thirteenth year of his said late Majesty King George the Third, intituled "An Act for establishing certain regulations for the better management of the affairs of the East India company, as well in India as in Europe," and by divers subsequent statutes: And whereas the said last-mentioned charter, so far as it respects the administration of justice at Madras, has been altered or changed by virtue of the said Act of the thirty-seventh year of his said late Majesty King George the Third, and also by an Act of the thirty-ninth and fortieth years of his said late Majesty, intituled "An Act for establishing certain regulations for the government of the British territories in India, and the better administration of justice within the same": And whereas it may be expedient, for the better administration of justice in the said settlement of Bombay, that a supreme court of judicature should be established at Bombay, in the same form and with the same powers and authorities as that now subsisting by virtue of the several Acts before mentioned at Fort William in Bengal: Be it therefore enacted, that it shall and may be lawful for his Majesty, his heirs and successors, by charter or letters patent under the great seal of Great Britain, to erect and establish a supreme court of judicature at Bombay aforesaid, to consist of such and the like number of persons, to be named from time to time by his Majesty, his heirs and successors, with full power to exercise such civil, criminal, admiralty, and ecclesiastical jurisdiction, both as to natives and British subjects, and to be invested with such powers and authorities, privileges, and immunities, for the better administration of the same, and subject to the same limitations, restrictions, and controul, within the said town and island of Bombay, and the limits thereof, and the territories subordinate thereto, and within the territories which now are or hereafter may be subject to or dependent upon the said government of Bombay, as the said supreme court of judicature at Fort William in Bengal by virtue of any law now in force and unrepealed doth consist of, is invested with, or subject to, within the said Fort William, or the places subject to or dependent on the government thereof: Provided always, that the governor and council at Bombay and the governor general at Fort William aforesaid shall enjoy the same exemption and no other from the authority of the said supreme court of judicature to be there erected, as is enjoyed by the said governor general and council at Fort William aforesaid for the time being from

13 Geo. 3. c. 63.

39 & 40 Geo. 3. c. 9.

His Majesty may establish a supreme court of judicature at Bombay.

the jurisdiction of the supreme court of judicature there already by law established.

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Salaries to be in lieu of all fees.

XI. And be it further enacted, that the said salaries of such chief justice and judges shall commence and take place from and after their respectively taking upon them the execution of their office as aforesaid, and that all such salaries shall be in lieu of all fees of office, perquisites, emoluments, and advantages whatsoever; and that no fees of office, perquisites, emoluments, or advantages whatsoever shall be accepted, received, or taken in any manner or on any account or pretence whatsoever, other than such salaries or allowances as are in and by this Act directed to be paid.

Allowance defraying expences of equipment and voyage.

XII. And be it further enacted, that the said court of directors shall and they are hereby required to pay and advance to every person who shall be appointed chief justice of the said supreme court to be erected in pursuance of this Act, and who shall be resident in the United Kingdom at the time of his appointment, the sum of one thousand two hundred pounds, and to every person who shall be appointed puisne judge of the said court, and who shall be resident in the United Kingdom at the time of his appointment, the sum of one thousand pounds, for the purpose of defraying the expenses of their equipment and voyage.

Salary to cease on a judge leaving India.

XIII. Provided always, and be it further enacted, that when either of the judges of the supreme court of judicature, which his Majesty is hereby empowered to erect at Bombay, shall respectively leave India, the salary payable under and by virtue of this Act to any such judge shall cease and be no longer paid; anything herein contained to the contrary thereof in anywise notwithstanding.

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Supreme courts at Madras and Bombay to have the same powers as the supreme court at Fort William in Bengal.

XVII. And be it further declared and enacted, that it hath been and is and shall be lawful for the supreme court of judicature at Madras, within Fort Saint George and the town of Madras and the limits thereof, and the factories subordinate thereto, and within the territories which now are or hereafter may be subject to or dependent upon the government of Madras, and that it shall be lawful for the said supreme court of judicature at Bombay to be created by virtue of this Act, within the said town and island of Bombay and the limits thereof, and the factories subordinate thereto, and within the territories which now are or hereafter may be subject to or dependent upon the said government of Bombay, and the said supreme courts respectively are hereby required within the same respectively, to do, execute, perform, and fulfil all such acts, authorities, duties, matters, and things whatsoever, as the said supreme court of Fort William is or may be lawfully authorized, empowered, or directed to

do, execute, perform, and fulfil within Fort William in Bengal aforesaid, or the places subject to or dependent upon the government thereof.

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4 GEO. IV. A. D. 1823.

CHAPTER LXXX.

An Act to consolidate and amend the several Laws now in force with respect to Trade from and to Places within the Limits of the Charter of the East India Company, and to make further Provisions with respect to such Trade; and to amend an Act of the present Session of Parliament for the registering of Vessels so far as it relates to Vessels registered in India. [a]

[*18th July 1823.*]

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Governor of Fort William to make rules, &c. with respect to masters, &c. for Lascars, &c. in ships trading under this Act.

XXV. AND be it further enacted, that it shall and may be lawful to and for the governor general of Fort William in Bengal in council, and he is hereby required, as soon as may be, to make, ordain, and publish, and from time to time as occasion may require to repeal and alter, and newly to make, ordain, and publish such rules and regulations to be observed by masters, officers, and owners of ships and vessels trading under the authority of this Act, the crews of which ships or vessels shall be wholly or in part composed of Asiatic sailors, Lascars, or natives of any of the territories, countries, islands, or places within the limits of the charter of the said united company, for the due supply of provisions, clothing, and other necessary accommodation of such Asiatic sailors, Lascars, and natives aforesaid, whilst they shall be on board such ships or vessels, and whilst absent from the countries or places to which they shall respectively belong, and until they shall be carried back to the places to which they may belong or from whence they may have been brought, and for the conveyance back of such Asiatic sailors, Lascars, or natives as aforesaid within a reasonable time to be fixed by such rules or regulations.

Such rules and regulations to be observed in like manner as if they had formed part of this Act, &c.

XXVI. AND be it further enacted, that all such rules and regulations, until they shall be repealed or altered, shall be observed and performed according to the true intent and meaning thereof, in like manner as if they had been herein inserted and had formed part of this Act; and a copy of all and every such rules and regulations, signed and authenticated as such by the

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[a This Act is repealed, except such parts thereof as relate to Asiatic sailors, Lascars, being natives of the territories under the government of the East India Company, 3 & 4 Will. 4, c. 93, s. 1.]

secretary for the time being of the government of Bengal, or by the secretary for the time being of the said united company, shall be deemed and received and taken in and by all courts, justices, and other persons, as full, sufficient, and conclusive evidence of such rules and regulations.

Master of every such ship to make out a list of Lascars, &c. on board, before such ship is admitted to entry.

XXVII. And be it further enacted, that the master or other person having the command of every ship or vessel trading under the authority of this Act, which from and after the passing of this Act shall arrive at any port in the United Kingdom of Great Britain or Ireland, and which shall have on board, or which during any part of her voyage shall have had on board, either as part of her crew, or in any other character or for any other reason, any Asiatic sailor, Lascar, or native of any of the territories, countries, islands, or places within the limits of the charter of the said united company, before such ship or vessel shall be admitted to entry, shall make out and exhibit to the principal officers of the customs, or other person thereunto lawfully authorized, a true and perfect list and description of every such Asiatic sailor, Lascar, or native aforesaid, which shall then be or who during any part of her voyage shall have been on board such ship or vessel, with a true account and statement what shall have become of every such Asiatic sailor, Lascar, and native aforesaid, who may have been and shall not then be on board.

Penalty for breach of rules as to Lascars, &c.

XXVIII. And be it further enacted, that for every breach or non-observance of any rule or regulation to be made in pursuance of this Act in relation to Asiatic sailors, Lascars, or natives aforesaid, which shall have happened or taken place, and for every omission to make out and exhibit such list, description, account, or statement of and respecting all such Asiatic sailors, Lascars, or natives aforesaid as herein is required, the master or commander and all and every the owners and owner of the ship or vessel on board which any such Asiatic sailor, Lascar, or native aforesaid shall be or shall have been, shall forfeit the sum of ten pounds for every Asiatic sailor, Lascar, or native aforesaid in respect of whom such breach, non-observance, omission, or defect shall have happened or taken place, to be recovered against the master, commander, and owners jointly or severally by bill, plaint, information, or action in any of his Majesty's courts of record in the United Kingdom of Great Britain and Ireland, or in the East Indies or elsewhere, to be commenced in the county or presidency or place where any such offender may happen to be, or by conviction in a summary way before two justices of the peace in the United Kingdom or in the East Indies, of the county or presidency where any such offender may happen to be; and of which sum and sums so to be forfeited one third part thereof shall go, belong, and be paid to the person or persons who shall inform or sue for the same, and the other two third parts thereof

shall be paid to such person or persons as the court or justices before whom the same shall be recovered shall award, to be applied in payment or reimbursement of any expence which may have been incurred by or for the use of the Asiatic sailor, Lascar, or native aforesaid, or the respective Asiatic sailors, Lascars, or natives aforesaid, in respect of whom such forfeiture or forfeitures shall have been recovered, or in such other manner, for his or their maintenance, return home, or benefit, as the court or justices before whom the same shall be recovered shall direct.

Convictions to be drawn up in the following form.

XXIX. And for the more easy and speedy conviction of the offenders under this Act, be it further enacted, that the justices of the peace before whom any person or persons shall be convicted of any offence under this Act shall and may cause the conviction to be drawn up in the following form of words, or in any other form of words to the like effect, as the case may happen; videlicet,

'Be it remembered, that on the day of in the year 'of our Lord A.B. [the offender or offenders] is '[or are] convicted before us, two of his Majesty's justices of the peace for '[the county or presidency, as the case may be], by virtue of an Act made in 'the fourth year of the reign of his Majesty King George the Fourth, intituled '[setting forth the title of this Act], of having [here state the offence or 'offences], which offence [or offences, as the case may be] has by confession of 'the offender [or offenders, or the oath of one or more credible witness or wit-'nesses, as the case may be]; for which said offence [or offences, as the case 'may be] we do adjudge that the said offender [or offenders] hath [or have] 'forfeited and do pay the sum of [the amount forfeited]; one third part 'whereof we do order and direct to be paid to [the informer], and the other 'two thirds thereof to C.D. and E.F. [such persons as the said justices shall 'direct], to be applied [in such manner as the case may require], pursuant to 'the provisions of the said Act. Given under our hands and seals the day 'and year first above written.'

Recovery of penalties.

XXX. And be it further enacted, that all sums of money of which any person shall be so convicted as aforesaid shall and may be levied by distress and sale of the goods and chattels of the offender; and that for want of sufficient distress every such offender may be committed to prison in the common gaol or house of correction for the space of three calendar months.

Lascars, &c. convicted of vagrancy to

XXXI. And whereas it may happen that Asiatic sailors, Lascars, and natives aforesaid may refuse to accept the maintenance to be provided for them under the rules and regulations before referred to, or to return home in the ships or vessels which may be engaged for that purpose: Be it therefore enacted, that if any such Asiatic sailor, Lascar, or native aforesaid shall at

be shipped on board of a vessel bound to the place from whence they were brought.

any time be convicted of an act of vagrancy under any of the laws in force in the United Kingdom respecting vagrants, it shall and may be lawful to and for the justice or justices or magistrates, before whom such conviction shall take place, to order and direct that he shall be shipped on board any ship or vessel bound to the place, or as near as may be to the place, to which he shall belong, or from which he shall have been brought, and the commander of which shall be willing to take charge of him in order to his being returned thereto, at the expence of the person or persons liable under any rule or regulation to be made as before mentioned, or of any other person being otherwise willing to defray the same; and it shall and may be lawful for the commander of any such ship or vessel having taken charge of such vagrant, and he is hereby required, to keep and detain him on board his ship for the voyage for which he shall be shipped.

Proceedings not to be quashed for want of form, &c.

XXXII. Provided also, and be it further enacted, that no conviction, order, or proceeding, to be made or had by or before any justices of the peace or other magistrate by virtue of this Act, shall be quashed or vacated for want of form; and that the order of such justices or other magistrates shall be final, and that no proceedings of any such justices or other magistrates in pursuance of this Act shall be removeable by certiorari or otherwise.

Limitation of actions, &c.

XXXIII. And be it further enacted, that if any action or suit shall be commenced against any person or persons for any thing done in pursuance of this Act, then and in every such case such action or suit shall be commenced or prosecuted within three months after the fact committed, and not afterwards; and the same and every such action or suit shall be brought in the county or place where the cause of action shall have arisen, and not elsewhere; and the defendant or defendants in every such action or suit shall and may plead the general issue, and at the trial thereof give this Act and the special matter in evidence; and if the matter or thing complained of shall appear to have been done under the authority and in execution of this Act, or if any such action or suit shall be brought after the time limited for bringing the same, or be brought and laid in any other county or place than as afore-mentioned, then the jury shall find for the defendant or defendants; and if the plaintiff shall become nonsuit, or discontinue his or her action after the defendant shall have appeared, or have a verdict against him or her, or if upon demurrer judgment shall be given against the plaintiff, the defendant shall and may recover treble costs, and have the like remedy for recovery thereof as any defendant or defendants hath or have in any cases of law.[a]

Company may

XXXIV. And be it further enacted, that if any Asiatic sailor, Lascar, or

[a] See, as to treble costs, 5 & 6 Vict., c. 97, s. 2.

native of any of the territories, countries, islands, or places within the limits of the charter of the said united company, having been brought to the United Kingdom on board any ship or vessel, not being a ship of war in the service of his Majesty, shall from and after the passing of this Act be found within the United Kingdom in distress for want of food, clothing, or other necessaries, it shall be lawful for the said united company to supply necessary and reasonable relief to such persons, and to maintain them until they shall be sent on board some ship bound for some place within the limits aforesaid, and also to pay, defray, and advance the money necessary to procure such persons proper and sufficient passage to their homes or places from which they were brought; and all such sums as the said company shall pay for or on account of such relief or maintenance or passage home shall constitute and become a joint and several debt due to the said company from the commander, owner or owners of such ship on board whereof such person or persons shall have been brought into the said United Kingdom, and shall be recoverable as so much money paid to and for the use of such owner or owners in any of the courts of the said United Kingdom, or in the East Indies if the owner shall reside there, in which actions or suits for the recovery of debts may be sued or prosecuted; and in all such actions and suits where the said company shall recover they shall be entitled to receive full costs of suit.

supply all necessaries for distressed Lascars, &c. brought on board ships to this country, and may recover expence from owners of ships.

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5 GEO. IV. A. D. 1824.

Chapter CXIII.

An Act to amend and consolidate the Laws relating to the Abolition of the Slave Trade. [*24th June 1824.*]

Whereas it is expedient that the various Acts and enactments relating to slavery and the slave trade should be consolidated and amended: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that from and after the first day of January in the year of our Lord one thousand eight hundred and twenty-five all the Acts and enactments relating to the slave trade and the abolition thereof, and the exportation and importation of slaves, shall be and the same are hereby repealed, save and except in so far as they may have repealed any prior Acts or enactments, or may have been acted upon, or may be expressly confirmed by this present Act. [Repealed, 36 & 37 Vict. c. 88. s. 30.]

All Acts relating to the slave trade, and the exportation and importation of slaves repealed.

II. And be it further enacted, that it shall not be lawful (except in such special cases as are herein-after mentioned) for any persons to deal or trade in, purchase, sell, barter, or transfer, or to contract for the dealing or trading in,

The purchase, sale, or contract for slaves declared

unlawful; as also the removal, importation, or exportation of slaves;

purchase, sale, barter, or transfer of slaves, or persons intended to be dealt with as slaves; or to carry away, or remove, or to contract for the carrying away or removing of slaves or other persons, as or in order to their being dealt with as slaves; or to import or bring, or to contract for the importing or bringing into any place whatsoever slaves or other persons, as or in order to their being dealt with as slaves; or to ship, tranship, embark, receive, detain, or confine on board, or to contract for the shipping, transhipping, embarking, receiving, detaining, or confining on board of any ship, vessel, or boat, slaves or other persons, for the purpose of their being carried away or removed, as or in order to their being dealt with as slaves; or to ship, tranship, embark, receive, detain, or confine on board, or to contract for the shipping, transhipping, embarking, receiving, detaining, or confining on board of any ship, vessel, or boat, slaves or other persons, for the purpose of their being imported or brought into any place whatsoever as or in order to their being dealt with as slaves; or to fit out, man, navigate, equip, despatch, use, employ, let, or take to freight or on hire, or to contract for the fitting out, manning, navigating, equipping, despatching, using, employing, letting, or taking to freight or on hire, any ship, vessel, or boat, in order to accomplish any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or to lend or advance, or become security for the loan or advance, or to contract for the lending or advancing, or becoming security for the loan or advance of money, goods, or effects employed or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or to become guarantee or security, or to contract for the becoming guarantee or security, for agents employed or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or in any other manner to engage or to contract to engage directly or indirectly therein as a partner, agent, or otherwise; or to ship, tranship, lade, receive, or put on board, or to contract, for the shipping, transhipping, lading, receiving, or putting on board of any ship, vessel, or boat, money, goods, or effects to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or to take the charge or command, or to navigate or enter and embark on board, or to contract for the taking the charge or command, or for the navigating or entering and embarking on board of any ship, vessel, or boat, as captain, master, mate, petty officer, surgeon, supercargo, seaman, marine, or servant, or in any other capacity, knowing that such ship, vessel, or boat is actually employed, or is in the same voyage

the fitting out of vessels, or making of loans or guarantees on shipping of goods for the above purposes;

the serving on board ships employed for any of such purposes;

or upon the same occasion, in respect of which they shall so take the charge or command, or navigate or enter and embark, or contract so to do as aforesaid, intended to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or to insure or to contract for the insuring of any slaves, or any property, or other subject matter, engaged or employed or intended to be engaged or employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful.

or the insuring of slaves or slave adventures.

III. And be it further enacted, that (except in such special cases as are in and by this Act permitted) if any persons shall deal or trade in, purchase, sell, barter, or transfer, or contract for the dealing or trading in, purchase, sale, barter, or transfer of slaves, or persons intended to be dealt with as slaves; or shall carry away or remove or contract for the carrying away or removing of slaves or other persons, as or in order to their being dealt with as slaves; or shall import or bring or contract for the importing or bringing into any place whatsoever slaves or other persons as or in order to their being dealt with as slaves; or shall ship, tranship, embark, receive, detain, or confine on board, or contract for the shipping, transhipping, embarking, receiving, detaining, or confining on board of any ship, vessel, or boat, slaves or other persons, for the purpose of their being carried away or removed, as or in order to their being dealt with as slaves; or to ship, tranship, embark, receive, detain, or confine on board, or contract for the shipping, transhipping, embarking, receiving, detaining, or confining on board of any ship, vessel, or boat, slaves or other persons, for the purpose of their being imported or brought into any place whatsoever, as or in order to their being dealt with as slaves; then and in every such case the persons so offending, and their procurers, counsellors, aiders, and abettors, shall forfeit and pay for every such offence the sum of one hundred pounds of lawful money of Great Britain for each and every slave so dealt or traded in, purchased, sold, bartered, or transferred, carried away, removed, imported, brought, shipped, transhipped, embarked, received, detained, or confined on board, or so contracted for as aforesaid; the one moiety thereof to the use of his Majesty, his heirs and successors, and the other moiety to the use of any person who shall inform, sue, and prosecute for the same; and all property or pretended property in such slaves or persons as aforesaid shall also be forfeited, and the said slaves or persons shall and may be seized and prosecuted as herein-after is mentioned and provided.

Penalty for dealing in slaves, or exporting or importing them, &c.

IV. And be it further enacted, that (except in such special cases or for such special purposes as are in and by this Act permitted) if any persons shall fit out, man, navigate, equip, despatch, use, employ, let or take to freight or on

Ships fitted out for slave trade to be forfeited.

hire, or contract for the fitting out, manning, navigating, equipping, despatching, using, employing, letting or taking to freight or on hire, any ship, vessel, or boat, in order to accomplish any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful, such ship, vessel, or boat, together with all her boats, guns, tackle, apparel, and furniture, and together likewise with all property, goods, or effects found on board belonging to the owner or owners, part owner or part owners of any such ship, vessel, or boat, shall become forfeited, and may and shall be seized and prosecuted as herein-after is mentioned and provided.

Penalty for embarking capital in the slave trade, &c.

V. And be it further enacted, that (except in such special cases or for such special purposes as are in and by this Act permitted) if any persons shall knowingly and wilfully lend or advance, or become security for the loan or advance, or shall contract for the lending or advancing, or becoming security for the loan or advance of money, goods, or effects employed or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful, then and in every such case the persons so offending, and their procurers, counsellors, aiders, and abettors, shall forfeit and pay for every such offence double the value of all the money, goods, and effects so lent, advanced, or secured or so contracted for as aforesaid, to be recovered and applied as is herein-after mentioned and provided.

Penalty for guaranteeing slave adventures.

VI. And be it further enacted, that (except in such special cases or for such special purposes as are in and by this Act permitted) if any persons shall knowingly and wilfully become guarantee or security, or contract for the becoming guarantee or security, for agents employed or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful, or shall in any other manner engage or contract to engage directly or indirectly therein as a partner, agent, or otherwise, then and in every such case the persons so offending, and their procurers, counsellors, aiders, and abettors, shall forfeit and pay for every such offence double the value of all the money, goods, and effects so by them secured or contracted so to be as aforesaid, to be recovered and applied as is herein-after mentioned and provided.

Penalty for shipping goods, &c. to be employed in the slave trade.

VII. And be it further enacted, that (except in such special cases or for such special purposes as are in and by this Act permitted) if any person shall knowingly and wilfully ship, tranship, lade, receive, or put on board, or contract for the shipping, transhipping, lading, receiving, or putting on board of any ship, vessel, or boat, any money, goods, or effects to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful, then

and in every such case the persons so offending, and their procurers, counsellors, aiders, and abettors, shall forfeit and pay for every such offence double the value of all the money, goods, and effects so shipped, transhipped, laden, received, or put on board, or contracted so to be as aforesaid, to be recovered and applied as is herein-after mentioned and provided.

Penalty for insuring slaves or slave adventures.

VIII. And be it further enacted, that (except in such special cases or for such special purposes as are in and by this Act permitted) if any person shall knowingly and wilfully insure or contract for the insuring of any slaves, or any property or other subject matter engaged or employed, or intended to be engaged or employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful, then and in every such case the person so offending, and their procurers, counsellors, aiders, and abettors, shall forfeit and pay for every such offence the sum of one hundred pounds of lawful money of Great Britain for every such insurance or contract for the same, and also treble the amount of the premium of any such insurance or contract for the same, the one moiety thereof to the use of his Majesty, his heirs and successors, and the other moiety to the use of any person who shall inform, sue, and prosecute for the same, and every such insurance shall be absolutely null and void.

Subjects of his Majesty, &c. dealing in slaves on the high seas, &c. to be deemed guilty of piracy.

IX. And be it further enacted, that if any subject or subjects of his Majesty, or any person or persons residing or being within any of the dominions, forts, settlements, factories, or territories now or hereafter belonging to his Majesty, or being in his Majesty's occupation or possession, or under the government of the United Company of Merchants of England trading to the East Indies, shall, except in such cases as are in and by this Act permitted, after the first day of January one thousand eight hundred and twenty-five, upon the high seas, or in any haven, river, creek, or place where the admiral has jurisdiction, knowingly and wilfully carry away, convey, or remove or aid, or assist in carying away, conveying, or removing, any person or persons as a slave or slaves, or for the purpose of his, her, or their being imported or brought as a slave or slaves into any island, colony, country, territory, or place whatsoever, or for the purpose of his, her, or their being sold, transferred, used, or dealt with as a slave or slaves, or shall after the said first day of January one thousand eight hundred and twenty-five, except in such cases as are in and by this Act permitted, upon the high seas, or within the jurisdiction aforesaid, knowingly and wilfully ship, embark, receive, detain, or confine, or assist in shipping, embarking, receiving, detaining, or confining, on board any ship, vessel, or boat, any person or persons for the purpose of his, her, or their being carried away, conveyed, or removed as a slave or slaves, or for the purpose of his, her, or their being imported or brought as a slave or slaves into

any island, colony, country, territory, or place whatsoever, or for the purpose of his, her, or their being sold, transferred, used, or dealt with as a slave or slaves, then and in every such case the person or persons so offending shall be deemed and adjudged guilty of piracy, felony, and robbery, and being convicted thereof shall suffer death without benefit of clergy, and loss of lands, goods, and chattels, as pirates, felons, and robbers upon the seas ought to suffer.

Persons dealing in slaves or removing or exporting or importing slaves;

X. And be it further enacted, that (except in such special cases as are in and by this Act permitted or otherwise provided for) if any persons shall deal or trade in, purchase, sell, barter, or transfer, or contract for the dealing or trading in, purchase, sale, barter, or transfer of slaves, or persons intended to be dealtwith as slaves, or shall, otherwise than as aforesaid, carry away or remove, or contract for the carrying away or removing of slaves or other persons, as or in order to their being dealt with as slaves, or shall import or bring, or contract for the importing or bringing into any place whatsoever slaves or other persons, as or in order to their being dealt with as slaves, or shall, otherwise than as aforesaid, ship, tranship, embark, receive, detain, or confine on board, or contract for the shipping, transhipping, embarking, receiving, detaining, or confining on board of any ship, vessel, or boat, slaves or other persons, for the purpose of their being carried away or removed, as or in order to their being dealt with as slaves; or shall ship, tranship, embark, receive, detain, or confine on board, or contract for the shipping, transhipping, embarking, receiving, detaining, or confining on board of any ship, vessel, or boat, slaves or other persons, for the purpose of their being imported or brought into any place whatsoever, as or in order to their being dealt with as slaves; or shall fit out, man, navigate, equip, despatch, use, employ, let, or take to freight or on hire, or contract for the fitting out, manning, navigating, equipping, despatching, using, employing, letting, or taking to freight or on hire any ship, vessel, or boat, in order to accomplish any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or shall knowingly and wilfully lend or advance, or become security for the loan or advance, or contract for the lending or advancing, or becoming security for the loan or advance, of money, goods, or effects employed or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or shall knowingly and wilfuly become guarantee or security, or contract for the becoming guarantee or security, for agents employed or to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful, or in any other manner to engage or to

or fitting out slave ships;

or embarking capital, &c. in the slave trade;

or guaranteeing slave adventures;

contract to engage directly or indirectly therein as a partner, agent, or otherwise; or shall knowingly and wilfully ship, tranship, lade, receive, or put on board, or contract for the shipping, transhipping, lading, receiving, or putting on board of any ship, vessel, or boat, money, goods, or effects to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or shall take the charge or command, or navigate, or enter and embark on board, or contract for the taking the charge or command, or for the navigating or entering and embarking on board of any ship, vessel, or boat, as captain, master, mate, surgeon, or supercargo, knowing that such ship, vessel, or boat is actually employed or is, in the same voyage or upon the same occasion in respect of which they shall so take the charge or command, or navigate or enter and embark, or contract so to do as aforesaid, intended to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or shall knowingly and wilfully insure or contract for the insuring of any slaves, or any property or other subject matter engaged or employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful; or shall wilfully and fraudulently forge or counterfeit any certificate, certificate of valuation, sentence or decree of condemnation or restitution, copy of sentence or decree of condemnation or restitution, or any receipt (such receipts being required by this Act), or any part of such certificate, certificate of valuation, sentence or decree of condemnation or restitution, copy of sentence or decree of condemnation or restitution, or receipt as aforesaid; or shall knowingly and wilfully utter or publish the same, knowing it to be forged or counterfeited, with intent to defraud his Majesty, his heirs or successors, or any other person or persons whatsoever, or any body politic or corporate; then and in every such case the person or persons so offending, and their procurers, counsellors, aiders, and abettors, shall be and are hereby declared to be felons, and shall be transported beyond seas for a term not exceeding fourteen years, or shall be confined and kept to hard labour for a term not exceeding five years, nor less than three years, at the discretion of the court before whom such offender or offenders shall be tried and convicted.

or shipping goods, &c. to be employed in the slave trade;

or serving on board slave ships as captain, master, surgeon, &c.;

or insuring slaves or slave adventures;

or forging instruments relating to the slave laws;

declared guilty of felony, &c.

XI. And be it further enacted, that (except in such special cases or for such special purposes as are in and by this Act expressly permitted) if any persons shall enter and embark on board, or contract for the entering and embarking on board of any ship, vessel, or boat, as petty officer, seaman, marine, or servant, or in any other capacity not herein-before specifically mentioned, knowing that such ship, vessel, or boat is actually employed or is, in the same

Seamen, &c. serving on board such ships declared guilty of a misdemeanor, &c.

voyage or upon the same occasion in respect of which they shall so enter and embark on board, or contract so to do as aforesaid, intended to be employed in accomplishing any of the objects, or the contracts in relation to the objects, which objects and contracts have herein-before been declared unlawful, then and in every such case the persons so offending, and their procurers, counsellors, aiders, and abettors, shall be and they are hereby declared to be guilty of a misdemeanor only, and shall be punished by imprisonment for a term not exceeding two years.

Making any offence piracy, felony, &c. shall not affect the provisions of this Act, imposing forfeitures or penalties for any such offence.

XII. Provided always, and it is hereby further enacted and declared, that nothing in this Act contained, making piracies, felonies, robberies, and misdemeanors of the several offences aforesaid, shall be construed to repeal, annul, or alter the provisions and enactments in this Act also contained, imposing forfeitures and penalties or either of them upon the same offences, or to repeal, annul, or alter the remedies given for the recovery thereof; but that the said provisions and enactments imposing forfeitures and penalties shall in all respects be deemed and taken to be in full force, ...

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Mortgages, &c. given for purposes hereby declared unlawful shall be void, except in case of bonâ fide purchasers of negotiable securities without notice.

XXXIX. And be it further enacted, that every mortgage, bond, bill, note, or other security, made in or to accomplish any of the objects, or the contracts in relation to the objects, which objects and contracts have by this Act been declared unlawful, shall, except in the case of a bonâ fide purchaser or holder of any such of the said securities as are in their nature negotiable, who may have purchased or obtained the same without notice that the same were made or given for any such unlawful purposes, be void.

Offenders giving information against owners of vessels, &c. to be exempted from penalties.

XL. Provided always, and be it further enacted, that if any person or persons offending as a petty officer, seaman, marine, or servant, against any of the provisions of this Act, shall, within two years after the offence committed, give information on oath before any competent magistrate against any owner or part owner, or any captain, master, mate, surgeon, or supercargo of any ship or vessel, who shall have committed any offence against this Act, and shall give evidence on oath against such owner or part owner, captain, master, mate, surgeon, or supercargo, before any magistrate or court before whom such offender may be tried; or if such person or persons so offending shall give information to any of his Majesty's ambassadors, ministers plenipotentiary, envoys, chargés d'affaires, consuls, residents, or other agents, so that any person or persons owning such ship or vessel, or navigating or taking charge of the same, as captain, master, mate, surgeon, or supercargo, may be apprehended; such person or persons so giving information and evidence shall not be liable to any of the pains or penalties under this Act incurred in respect of his

offence, and his Majesty's ambassadors, ministers plenipotentiary, envoys, chargés d'affaires, consuls, residents, or other agents, are hereby required to receive any such information as aforesaid, and to transmit the particulars thereof, without delay, to one of his Majesty's principal secretaries of state, and to transmit copies of the same to the commanders of his Majesty's ships or vessels then being in the said port or place.

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Limitation of suits, &c. for penalties and forfeitures.

XLVII. And be it further enacted, that all actions, suits, bills, indictments, or informations, for the recovery of any of the penalties or forfeitures under this Act, may be commenced, had, brought, sued, exhibited, or prosecuted at any time within five years after the offence committed, by reason whereof such penalty or forfeiture shall be incurred: Provided always, that where any slave or slaves have been, or shall at any time have been illegally imported, nothing herein contained shall extend to prevent proceeding being commenced to obtain the condemnation or forfeiture thereof, but that the said slave or slaves so illegally imported shall and may be condemned and forfeited at any time after such illegal importation.

No limitation to suits for condemnation and forfeiture of slaves illegally imported.

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6 GEO. IV. A. D. 1825.

Chapter LXXVIII.

An Act to repeal the several Laws relating to the Performance of Quarantine, and to make other Provisions in lieu thereof. [*27th June 1825.*]

Whereas it is expedient to repeal the several laws relating to the performance of quarantine, and to make other provisions in lieu thereof: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that from and after the first day of June one thousand eight hundred and twenty-five all and every Act and all parts of Acts of the Parliament of Great Britain and Ireland respectively, and of the Parliament of the United Kingdom, relating to the performance of quarantine, or relating to the charging any duty or duties upon vessels which may be liable to or have performed quarantine, shall be and the same is hereby repealed; [Repealed, Stat. Law Rev. Act, 1873.] . . . . . .

Acts relating to quarantine repealed.

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Masters of vessels to hoist certain signals when plague or infectious disease is on board, on

IX. And be it further enacted, that every commander, master, or other person, having the charge of any vessel on board whereof the plague or other infectious disease or distemper highly dangerous to the health of his Majesty's subjects shall actually be, shall be and is hereby required at all times when such vessel shall meet with any other vessel at sea, or shall be within two

penalty of 100*l.*

leagues of the coast of the United Kingdom, or the islands of Guernsey, Jersey, Alderney, Sark, or Man, to hoist a signal to denote that his vessel has the plague or other infectious disease or distemper highly dangerous to the health of his Majesty's subjects actually on board thereof, which signal shall be in the day-time a flag of yellow and black, borne quarterly, of eight breadths of bunting, at the maintop mast-head; and in the night-time, the signal shall be two large signal lanthorns, such as are commonly used on board of his Majesty's ships of war, one over the other, at the same mast-head; and such commander, master, or other person shall keep such signal hoisted during such time as the said vessel so having the plague or such other infectious disease or distemper as aforesaid on board thereof shall continue within sight of such other vessel, or within two leagues of the coasts or islands aforesaid, while so in sight or within such distance, until such vessel so having the plague or such other infectious disease or distemper as aforesaid on board thereof shall have arrived at the port or place where it is to perform quarantine, and until it shall have been legally discharged from the performance thereof; on failure thereof such commander, master, or other person having charge of such vessel shall forfeit and pay for every such offence the sum of one hundred pounds.

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6 GEO. IV. A. D. 1825.

Chapter LXXXV.

An Act for further regulating the Payment of the Salaries and Pensions to the Judges of His Majesty's Courts in India, and the Bishop of Calcutta; for authorizing the Transportation of Offenders from the Island of Saint Helena; and for more effectually providing for the Administration of Justice in Singapore and Malacca, and certain Colonies on the Coast of Coromandel. [*5th July 1825.*]

13 Geo. 3. c. 63.

Whereas by an Act made and passed in the thirteenth year of the reign of his late Majesty King George the Third, intituled "An Act for establishing certain regulations for the better management of the affairs of the East India Company, as well in India as in Europe," it was enacted, that it should be lawful for his Majesty, by charter or letters patent under the great seal of Great Britain, to erect and establish a supreme court of judicature at Fort William in Bengal, to consist of a chief justice and three other judges, to be named from time to time by his Majesty, his heirs and successors; and that the court of directors of the united company of merchants of England

trading to the East Indies should direct and cause to be paid certain established salaries to the chief justice and each of the judges of the said supreme court of judicature at Fort William in Bengal; that is to say, to the chief justice eight thousand pounds by the year, and to each of the judges of the said supreme court, six thousand pounds by the year, in manner therein mentioned: And whereas his said late Majesty King George the Third, by his letters patent under the great seal of Great Britain, bearing date at Westminster the twenty-sixth day of March in the fourteenth year of his reign, did erect and establish such supreme court of judicature at Fort William in Bengal accordingly, and did declare that the chief justice and puisne judges of the said court should, so long as they should hold their offices respectively, be entitled to have and receive respectively the salaries in the said in part recited Act provided for that purpose: And whereas by virtue of an Act made in the thirty-seventh year of the reign of his said late Majesty King George the Third, intituled "An Act for the better administration of "justice at Calcutta, Madras, and Bombay, and for preventing British subjects "from being concerned in loans to the native princes in India," the number of puisne judges of the said supreme court of judicature at Fort William in Bengal was reduced to two: And whereas by an Act made in the thirty-ninth and fortieth years of the reign of his said late Majesty King George the Third, intituled "An Act for establishing further regulations for the government of "the British territories in India, and the better administration of justice "within the same," it is enacted, that it should and might be lawful for his Majesty, his heirs and successors, by charter or letters patent under the great seal of Great Britain, to erect and establish a supreme court of judicature at Madras in the East Indies, to consist of such and the like number of persons, to be named from time to time by his Majesty, his heirs and successors, as the said supreme court of judicature at Fort William in Bengal; and that the court of directors of the said united company should direct and cause to be paid certain and established salaries to the chief justice, and each of the judges of such supreme court of judicature at Madras, as should be by the said new charter established; (that is to say,) to the chief justice six thousand pounds by the year, and to each of the judges of the said supreme court of judicature at Madras five thousand pounds by the year; and that such salaries should be paid and payable to each and every of them respectively out of the territorial revenues of the said settlement of Madras, at an exchange of eight shillings for the pagoda of that settlement: And whereas his said late Majesty King George the Third, by his letters patent under the great seal of Great Britain, bearing date at Westminster the twenty-sixth day of December in the forty-first year of his reign, did erect and establish such supreme court

37 Geo. 3, c. 142.

39 & 40 Geo. 3, c. 79.

of judicature at Madras accordingly, and did grant, ordain, appoint, and declare that the chief justice and puisne judges of the said court should, so long as they should hold their offices respectively, be entitled to have and receive respectively the salaries in the said last mentioned Act provided for that purpose: And whereas by an Act passed in the thirty-seventh year of the reign of his late Majesty King George the Third, intituled "An Act for "the better administration of justice at Calcutta, Madras and Bombay, and "for preventing British subjects from being concerned in loans to the native "princes in India," it is amongst other things enacted, that it should be lawful for his said Majesty, by charter or letters patent under the great seal of Great Britain, to erect and establish a court of judicature at Bombay, to consist of the mayor and three of the aldermen resident at the said settlement of Bombay, together with one other person to be named from time to time by his said Majesty, his heirs and successors, to be the president of the said court, and to be styled "the Recorder of Bombay"; and that during such time as the said settlement of Bombay should remain in the possession of the said united company, the court of directors of the said united company should direct and cause to be paid, to the recorder of the said court of judicature at Bombay, the yearly sum of five thousand pounds, such salary to be paid out of the revenues of the said settlement of Bombay, at an exchange of two shillings and sixpence for the Bombay rupee, and to commence and take place from such time as therein is mentioned: And whereas his said Majesty King George the Third, by his letters patent under the great seal of Great Britain, bearing date at Westminster the twentieth day of February in the thirty-eighth year of his reign, did erect and establish such court of the recorder of Bombay accordingly, and did grant and declare, that the recorder of the said court should, so long as he should hold the said office, be entitled to have and receive the salary in the said last mentioned Act provided for that purpose: And whereas by an Act passed in the fourth year of the reign of his present Majesty, intituled "An Act for defraying the charge of retiring pay, pen-"sions, and other expences of that nature, of his Majesty's forces serving in "India; for establishing the pensions of the bishop, archdeacons, and judges; "for regulating ordinations; and for establishing a court of judicature at "Bombay," it is enacted, that it should and might be lawful for his said Majesty, his heirs or successors, by charter or letters patent under the great seal of Great Britain, to erect and establish a supreme court of judicature at Bombay aforesaid, to consist of such and the like number of persons, to be named from time to time by his said Majesty, his heirs and successors, as the said supreme court of judicature at Fort William in Bengal; and that the court of directors of the said united company should direct and

37 Geo 3 c. 142.

4 Geo. 4. c. 71.

cause to be paid certain and established salaries to the chief justice and each of the judges of such supreme court of judicature at Bombay as should be by the said new charter established; that is to say, to the chief justice, fifty-two thousand two hundred Bombay rupees by the year, and to each of the puisne judges of the said supreme court of judicature at Bombay forty-three thousand five hundred Bombay rupees by the year; and that such salaries should be paid and payable to each and every of them respectively out of the territorial revenues of the said settlement of Bombay: And whereas his said Majesty King George the Fourth, by his letters patent under the great seal of the United Kingdom of Great Britain and Ireland, bearing date at Westminster the eighth day of December in the fourth year of his reign, did erect and establish such supreme court of judicature at Bombay accordingly, and did grant and declare that the chief justice and puisne judges of the said court should, so long as they should hold their offices respectively, be entitled to have and receive respectively the salaries in the said last mentioned Act provided for that purpose: And whereas his late Majesty King George the Third did, by his letters patent bearing date at Westminster the twenty-fifth day of March in the forty-seventh year of his reign, for himself, his heirs and successors, give and grant unto the said united company and their successors, and did direct, ordain, and appoint, that there should be within the factory of Prince of Wales Island, and the places then or any time to be subordinate or annexed thereto, a court of record, to be called "the Court of Judicature of "Prince of Wales Island," and did thereby erect, create, and constitute the said court of judicature of Prince of Wales Island to be a court of record; and his said late Majesty did, by his said letters patent, further will, ordain, and appoint that the said court of judicature should consist of and be holden before the governor or president and the three counsellors of the said factory for the time being, as four of the judges of the said court, and before one other judge, to be called "the Recorder of the Prince of Wales Island," and which recorder of Prince of Wales Island it is ordained should be a barrister in England or Ireland, of not less than five years standing, to be named and appointed from time to time by his said Majesty, his heirs and successors, by letters patent under the great seal of the United Kingdom of Great Britain and Ireland; and his said Majesty did thereby further direct, that the said recorder of Prince of Wales Island should hold his office during the pleasure of his said Majesty, his heirs and successors, and did further direct, ordain, and appoint, that it should and might be lawful to and for the said recorder of Prince of Wales Island to receive from the said united company a salary equal to the yearly sum of three thousand pounds money current in that part of the United Kingdom called England, to be calculated at the exchange of five shillings

of the said lawful money for every dollar current within the said factory: And whereas by an Act made and passed in the fifty-third year of the reign of his late Majesty King George the Third, intituled "An Act for continuing "in the East India Company for a further term the possession of the British "territories in India, together with certain exclusive privileges, for estab-"lishing further regulations for the government of the said territories, and "the better administration of justice within the same, and for regulating the "trade to and from the places within the limits of the said company's "charter," it is amongst other things enacted, that in case it should please his Majesty, by his royal letters patent under the great seal of the said United Kingdom, to erect, found, and constitute one bishoprick for the whole of the said British territories in the East Indies and parts aforesaid, and from time to time to nominate and appoint a bishop, the court of directors of the said company, during such time as the said territorial acquisitions should remain in the possession of the said company, should and they were thereby required to direct and cause to be paid a certain established salary from and out of the revenues of the said presidency of Fort William and Bengal, to the said bishop, of five thousand pounds by the year, at an exchange of two shillings for the Bengal current rupee: And whereas his said late Majesty King George the Third did, by his letters patent bearing date at Westminster the second day of May one thousand eight hundred and fourteen, in the fifty-fourth year of his reign, erect, found, and constitute such bishoprick accordingly: And whereas it is deemed expedient to make further and different provisions for the payment of the salaries of the judges of the said supreme courts of judicature at Madras and Bombay respectively, and to make provision for the payment to any of the puisne judges of the said supreme courts of judicature at Fort William in Bengal, and at Madras and Bombay respectively, who, during the vacancy of the office of chief justice in any of the said courts, shall execute and discharge the duties of chief justice, of the salary of the office of chief justice, in lieu of that of puisne judge, in respect of the time during which such puisne judge shall so execute and discharge the office of chief justice; and it is also expedient to make further provision for all such chief justices, bishops, judges, and recorders respectively, so as that the acceptance of such offices respectively shall not be the occasion of actual loss to their representatives, in the event of the death of any such chief justices, bishops, judges, or recorders respectively having taken place or hereafter taking place after their arrival in India: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that the court of directors of the said united company

53 Geo. 3. c. 155.

shall and they are hereby required to direct and cause to be paid to the chief justices and each of the puisne judges of the said supreme court of judicature at Madras, in lieu and stead of the salaries paid or payable to them respectively under or by virtue of the said recited Acts of the thirty-ninth and fortieth years of his late Majesty's reign, in like manner and subject to the same regulations and provisions as the said salaries have been heretofore or are now paid and payable, and not otherwise, the salaries herein-after mentioned; that is to say, to the chief justice of the said supreme court of judicature at Madras, the sum of fifty-eight thousand Madras rupees by the year, to be computed from the first day of January one thousand eight hundred and eighteen to the time of the passing of this Act, and from thenceforth a salary after the rate of sixty thousand Madras rupees by the year; and to each of the puisne judges of the said last mentioned court a salary after the rate of forty-eight thousand Madras rupees by the year, [to be computed from the said first day of January one thousand eight hundred and eighteen to the time of the passing of this Act, and from thenceforth a salary after the rate of fifty thousand Madras rupees by the year;] and that such salaries shall be paid and payable to each and every of them respectively, out of the territorial revenues of the said settlement of Madras.

Salaries to judges of supreme court of judicature at Madras.

II. And be it further enacted, that the court of directors of the said united company shall and they are hereby required to direct and cause to be paid to the chief justice and each of the puisne judges of the said supreme court of judicature at Bombay, in lieu and instead of the salaries paid or payable to them respectively under or by virtue of the said recited Act of the fourth year of his present Majesty, in like manner and subject to the same regulations and provisions as the said salaries have been heretofore or are now paid or payable, and not otherwise, the salaries herein-after mentioned; that is to say, to the chief justice of the said supreme court of judicature at Bombay a salary after the rate of fifty-eight thousand Bombay rupees by the year, to be computed from the eighth day of May one thousand eight hundred and twenty-four to the time of the passing of this Act, and from thenceforth a salary after the rate of sixty thousand Bombay rupees by the year; and to each of the puisne judges of the said last mentioned court the sum of forty-eight thousand Bombay rupees by the year, to be computed from the said eighth day of May one thousand eight hundred and twenty-four to the time of the passing of this Act, and from thenceforth a salary after the rate of fifty thousand Bombay rupees by the year; and that such salaries shall be paid and payable to each and every of them respectively, out of the territorial revenues of the said settlement of Bombay.

Salaries to judges of supreme court of judicature at Bombay.

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Judge executing the office of chief justice at Fort William, Madras, or Bombay to be entitled to salary of chief justice.

IV. And be it further enacted, that when and as often as it shall happen that in consequence of the vacancy of the office of chief justice in any of the said supreme courts of judicature at Fort William in Bengal, or at Madras or Bombay respectively, one of the puisne judges of the said courts respectively shall preside for and exercise the office of such chief justice, such puisne judge so acting as chief justice during a vacancy, and until the arrival of the person appointed to succeed to the office of chief justice, shall be entitled to receive, in lieu of his proportion of salary as a puisne judge of such court, such a proportion of salary (and no more) as would have become due to such chief justice during the period while the vacancy shall be supplied by such puisne judge as aforesaid; and that the payment of such rate of salary to a puisne judge so acting or having acted as such chief justice in any of the said supreme courts respectively shall commence and take effect from the twenty-second day of January one thousand eight hundred and twenty-two.

Provision for payment of one year's salary to representatives of any judge or bishop, &c. who shall die either during his voyage, or within six months after his arrival, &c.;

V. And be it further enacted, that in all cases from and since the said twenty-second day of January one thousand eight hundred and twenty-two in which it has already happened, or when and as often as it shall hereafter happen, that any chief justice or puisne judge of any of the said supreme courts of judicature at Fort William in Bengal, Madras, or Bombay, or the recorder of Prince of Wales Island, or any bishop of Calcutta, shall have departed or shall hereafter depart this life, either during his voyage to India or within six calendar months next after the day when he shall have arrived in India for the purpose of taking upon him the office of such chief justice or puisne judge, recorder, or bishop, the court of directors of the said united company shall and they are hereby required to pay, or direct and cause to be paid, out of the territorial revenues from which the salary of such chief justice or puisne judge, recorder, or bishop so dying shall be payable, to the legal personal representatives of such chief justice or puisne judge, recorder, or bishop so dying as aforesaid, such sum or sums of money as shall, together with the sum or sums paid to or drawn by such chief justice or puisne judge, recorder, or bishop, in respect of his salary, make up the full amount of one year's salary of the office to which he shall have been appointed; and that from and since the first day of January one thousand eight hundred and twenty-three, when and as often as it shall have happened or shall hereafter happen that any such chief justice or puisne judge, recorder, or bishop hath departed or shall depart this life while in possession of such office, and after the expiration of six calendar months from the time of his arrival in India for the purpose of taking upon him the office of chief justice, puisne judge, recorder, or bishop, then and in all and every of such cases the said court of directors shall and they are hereby required to pay, or direct and cause to

and for payment of half a year's salary to representatives of any judge, &c. dying after such six months.

be paid, out of the territorial revenues from which the salary of such chief justice, puisne judge, recorder, or bishop so dying shall be payable, to the legal personal representatives of such chief justice or puisne judge, recorder, or bishop respectively so dying as aforesaid, over and above what may have been due to such chief justice or puisne judge, recorder, or bishop respectively at the time of his death, a sum equal to the amount of six calendar months' salary of the office of such chief justice or puisne judge, recorder, or bishop respectively.

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Pensions to chief justices, judges, &c. on resignation.

VII. And be it further enacted, that if any of the chief justices or puisne judges of the said supreme courts of judicature at Fort William, Madras, or Bombay respectively, or the recorder of the court of judicature of Prince of Wales Island, shall resign his office in consequence of age, infirmity, or other cause, to be approved by his Majesty, his heirs or successors, it shall and may be lawful for his Majesty, his heirs or successors, by warrants under the sign manual, to direct and authorize an allowance to be made out of the revenues of the British territories in India to such chief justice, puisne judges, or recorder so resigning, subject to the limitations and restrictions herein-after provided; that is to say, provided always, that it shall not be lawful for his Majesty to direct any such allowance to be made to any person who shall not have resided in India for five years, either as chief justice or as a puisne judge (or partly as one and partly as the other) of some or one of the said supreme courts.

Five years residence necessary.

Limitation of pension to chief justice of Fort William.

VIII. Provided also, and be it enacted, that it shall not be lawful to direct any larger allowance to be made to any chief justice of the said supreme court of judicature at Fort William than the sum of one thousand pounds sterling per annum, unless he shall have resided in India as such chief justice or puisne judge, or partly as one and partly as the other, for seven years; nor, if he shall have so resided for seven years, shall it be lawful to direct any larger allowance to be made to him than the sum of one thousand three hundred pounds sterling per annum, unless he shall have resided in India as such chief justice or puisne judge, or partly as one and partly as the other, for ten years; nor, if he shall have so resided for ten years, shall it be lawful to direct any larger allowance to be made to him than the sum of two thousand pounds sterling per annum.

Limitation of pensions to chief justices of Madras and Bombay.

IX. Provided also, and be it further enacted, that it shall not be lawful to direct any larger allowance to be made to either of the chief justices of the said supreme courts of judicature at Madras or Bombay than the sum of eight hundred pounds sterling per annum, unless he shall have resided in India as such chief justice or puisne judge, or partly as one and partly as the other,

for seven years; nor, if he shall have so resided for seven years, shall it be lawful to direct any larger allowance to be made to him than the sum of one thousand pounds sterling per annum, unless he shall have resided in India as such chief justice or puisne judge, or partly as one and partly as the other, for ten years; nor, if he shall have so resided for ten years, shall it be lawful to direct any larger allowance to be made to him than the sum of one thousand six hundred pounds sterling per annum.

Limitation of pensions to puisne judges of Fort William.

X. PROVIDED also, and be it further enacted, that it shall not be lawful to direct any larger allowance to be made to either of the puisne judges of the said supreme court of judicature at Fort William than the sum of seven hundred and fifty pounds sterling per annum, unless he shall have resided in India as such puisne judge for seven years; nor, if he shall have so resided for seven years, shall it be lawful to direct any larger allowance to be made to him than the sum of one thousand pounds sterling per annum, unless he shall have resided in India as such puisne judge for ten years; nor, if he shall have so resided for ten years, shall it be lawful to direct any larger allowance to be made to him than the sum of one thousand five hundred pounds sterling per annum.

Limitation of pensions to puisne judges of Madras and Bombay.

XI. AND be it further enacted, that it shall not be lawful to direct any larger allowance to be made to any one of the puisne judges of either of the said supreme courts of judicature at Madras or Bombay respectively than the sum of six hundred pounds sterling per annum, unless he shall have resided in India as such puisne judge for seven years; nor, if he shall have so resided for seven years, shall it be lawful to direct any larger allowance to be made to him than the sum of eight hundred pounds sterling per annum, unless he shall have resided in India as such puisne judge for ten years; nor, if he shall have so resided for ten years, shall it be lawful to direct any larger allowance to be made to him than the sum of one thousand two hundred pounds sterling per annum.

Chief justice not to have more than puisne judge unless he has been chief justice for five years.

XII. PROVIDED also, and be it further enacted, that it shall not be lawful for his Majesty to direct any larger allowance to be made to any chief justice of any of the said supreme courts so resigning than the amount by this Act limited for the allowance to be made to the puisne judges of the court to which such chief justice shall belong, unless he shall have held the office of a chief justice of one of the said supreme courts during five years of his residence in India.

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53 Geo. 3. c. 155 § 4 Geo. 4 c. 71 ss. 2, 3.

XV. AND whereas under and by virtue of an Act made and passed in the fifty-third year of the reign of his late Majesty King George the Third, and of another Act made and passed in the fourth year of the reign of his present

Majesty, provision is made for granting a pension to the bishop of Calcutta, under the limitations therein contained, and it is expedient to make further provision in respect thereof; be it further enacted, that it shall and may be lawful for his Majesty, his heirs and successors, in manner in the said Act of the fifty-third year of the reign of his late Majesty mentioned, to grant to any such bishop, who shall have exercised within the limits of the charter of the said united company the office of bishop of Calcutta for five years, a pension not exceeding one half of the sum which his Majesty, by the said Act of the fifty-third year of the reign of his late Majesty, is empowered to grant to any such bishop; and also to grant to any such bishop, who shall have exercised within the limits aforesaid the said office of bishop of Calcutta for seven years, a pension not exceeding two-thirds of the sum which his Majesty, by the said Act of the fifty-third year of his late Majesty's reign, is empowered to grant to any such bishop.

Pension to bishop of Calcutta on resignation.

XVI. Provided also, and be it further enacted, that it shall not be lawful for his Majesty, his heirs or successors, to direct any such allowance to be made to any such chief justice, puisne judge, recorder, or bishop respectively, who before he shall have held and exercised such office, or some or one of such offices, for the space of ten years in the whole, shall resign his said office for any other cause than in consequence of illness or infirmity, to be proved to the satisfaction of his Majesty, his heirs or successors.

Resignation under ten years service for other cause than illness not to entitle to pension.

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XX. And be it further enacted, that from and after the first day of January next, the colonies, possessions, and establishments so ceded to his Majesty, and which are situate on the coast of Coromandel, or in the northern circars in the East Indies, and all the inhabitants of the said colonies, possessions, and establishments, and all other persons being therein, shall cease to be subject to and shall be wholly exempt from the jurisdiction of the said supreme court of judicature in Bengal; and the said colonies, possessions, and establishments, and all the inhabitants thereof, and all other persons being therein, shall be subject and amenable to the jurisdiction and authority of the supreme court of judicature at Fort Saint George in the East Indies, in like manner as any other place being or deemed to be a factory subordinate to the Government of Fort Saint George, and the inhabitants thereof, whether Europeans or natives, as the case may be, is or are or ought to be liable and amenable thereto; the said Act of the thirty-ninth and fortieth years of his late Majesty's reign, or any other law or statute, to the contrary thereof in anyways notwithstanding.

Colonies on the coast of Coromandel or in the northern circars, ceded to His Majesty by the King of the Netherlands, to be under jurisdiction of supreme court of Fort Saint George.

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7 GEO. IV. A. D. 1826.

Chapter LII.

An Act for defraying the Expence of any additional Naval Force to be employed in the East Indies.

[*26th May 1826.*]

83 Geo. 3. c. 155.

Whereas by an Act passed in the fifty-third year of the reign of his late Majesty King George the Third, intituled "An Act for continuing "in the East India Company for a further term the possession of the British "territories in India, together with certain exclusive privileges; for establishing further regulations for the government of the said territories and the "better administration of justice within the same; and for regulating the "trade to and from the places within the limits of the said company's charter," provision is made for defraying all the charges and expences of raising and maintaining the forces, as well European as native, military, artillery, and marine, on the establishments in the East Indies and parts within the limits aforesaid, and of maintaining the forts and garrisons there, and providing warlike and naval stores: And whereas it is expedient that similar provision should be made for payment by the said company of the expences of any naval force which now is or at any time hereafter may be sent to the East Indies or parts aforesaid, for the purpose of being employed in hostilities with any of the native powers: May it therefore please your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that all the charges and expences of sending out and employing in the East Indies and parts aforesaid the naval force which hath been lately sent out by his Majesty, upon the representation of the court of directors of the said united company, with the approbation of the commissioners for the affairs of India, and also all the charges and expences of any naval force which may hereafter be sent out by his Majesty, his heirs or successors, upon the representation of the court of directors of the said united company, and with the approbation of the said commissioners, for the purpose of being employed in hostilities against any of the native powers in the East Indies or parts aforesaid, shall be borne by the said united company as part of their political charges, and the amount thereof shall from time to time, as the same shall be ascertained, be paid into the receipt of the Exchequer, in such manner as the commissioners of his Majesty's Treasury of the United Kingdom of Great Britain and Ireland shall direct.

Charges and expences of naval forces sent out on representation of directors of East India company, and with approbation of commissioners for affairs of India, for employment in hostilities against native powers, to be defrayed by the company.

7 GEO. IV. A. D. 1826.

Chapter LVI.

An Act to suspend the Provisions of an Act of His late Majesty, respecting the Appointment of Writers in the Service of the East India Company, and to authorize the Payment of the Allowances of the Civil and Military Officers of the said Company dying while absent from India.

[*26th May 1826.*]

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III. And whereas by an Act passed in the thirty-third year of the reign of his late Majesty King George the Third, intituled "An Act for continuing in "the East India Company for a further term the possession of the British "territories in India, together with their exclusive trade, under certain limit-"ations; for establishing further regulations for the government of the said "territories, and the better administration of justice within the same; for "appropriating to certain uses the revenues and profits of the said company; "and for making provision for the good order and government of the towns "of Calcutta, Madras, and Bombay," it was enacted, that if any governor general or any other officer whatever in the service of the said company, should quit or leave the presidency or settlement to which he should belong, other than in the known actual service of the said company, the salary and allowances appertaining to his office should not be paid or payable during his absence to any agent or other person for his use, and in the event of his not returning back to his station at such presidency or settlement; or of his coming to Europe, his salary and allowances should be deemed to have ceased from the day of his quitting such presidency or settlement; any law or usage to the contrary notwithstanding: And whereas it hath happened that officers, as well civil as military, in the service of the said company, who have quitted the presidencies or settlements to which they respectively belonged in consequence of ill-health, with the intention of returning to their stations at such presidencies or settlements without proceeding to Europe, have died during such temporary absence within the limits of the said company's charter or at the Cape of Good Hope: And whereas it is just and reasonable that the representatives of such officers should be entitled to the salaries and allowances of such officers from the time of quitting their stations: Be it therefore enacted, that it shall and may be lawful to and for the said company to cause payment to be made to the representatives of officers in their service, civil or military, who having quitted or left their stations, and not having proceeded or intended to proceed to Europe, but intending to return to their stations, have died, or may hereafter happen to die, during their temporary absence, within the limits of

33 Geo 3. c. 52.

Representatives of officers dying during a temporary absence from their stations may receive the salaries to which such officers would

have been entitled if they had returned to their stations.

the said company's charter, or at the Cape of Good Hope, of such salaries and allowances, or such portion of salaries or allowances, as the officers so dying would have been entitled to if they had returned to their stations.

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9 GEO. IV. A. D. 1828.

CHAPTER XXXIII.[a]

An Act to declare and settle the Law respecting the Liability of the Real Estates of British Subjects and others, situate within the Jurisdiction of His Majesty's Supreme Courts in India, as Assets in the Hands of Executors and Administrators, to the Payment of the Debts of their deceased Owners.

[*27th June 1828.*]

WHEREAS some doubts have arisen whether, and to what extent, the real estates of *British* subjects and others (not being Mahomedans or Gentoos), situate within or being under the jurisdiction of his Majesty's supreme courts of judicature in *India*, are liable, as assets in the hands of executors and administrators, to the payment of the debts of their deceased owners: And whereas it is expedient that such doubts should be removed; Be it therefore and it is hereby declared and enacted by the king's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that whenever any *British* subject shall die seised of or entitled to any real estate in houses, lands, or hereditaments, situate within or being under the general civil jurisdiction of his Majesty's supreme courts of judicature at *Fort William* in *Bengal, Fort Saint George,* and *Bombay* respectively, or whenever any person (not being a Mahomedan or Gentoo) shall die seised of or entitled to any such real estate, situate within the local limits of the civil jurisdiction of the same courts respectively, such real estate of such *British* subject or other person as aforesaid (not being a Mahomedan or Gentoo) is and shall be deemed assets, in the hands of his or her executor or administrator, for the payment of his or her debts, whether by specialty or simple contract, in the ordinary course of administration.

Whenever any British subjects, or persons not being Mahomedans or Gentoos, shall die, entitled to any real estate in India, such estate shall be deemed assets.

II. AND it is further declared and enacted, that it is and shall be lawful for such executor or administrator of such *British* subject or other person as

Executors may sell such real estates for the

[a Repealed by 36 & 37 Vict., c. 91, except as to estates of persons dying before 1st January, 1866.]

aforesaid (not being a Mahomedan or Gentoo), to sell and dispose of such real estate for the payment of such debts as aforesaid, and to convey and assure the same estate to a purchaser, in as full and effectual a manner in law as the testator or intestate of such executor or administrator could or might have done in his life-time.

payment of debts.

III. And it is further declared and enacted, that in any suit or action to be commenced and prosecuted in any of the said courts respectively, against such executor or administrator as aforesaid, for the recovery of any debt or demand due and owing by such testator or intestate in his life-time and at the time of his death, such executor or administrator shall and may be charged with the full amount in value of such real estate as aforesaid, not exceeding the actual net proceeds of such estate when sold by the sheriff, as assets in the hands of such executor or administrator to be administered.

In any action for debt, the executor may be charged with the full amount of such real estate.

IV. And it is further declared and enacted, that in any such suit or action against such executor or administrator as aforesaid, it is and shall be lawful for the said courts respectively to award and issue such writs of sequestration and execution against such houses, lands, and real effects of such testator or intestate, in the hands of such executor or administrator as aforesaid, and to cause the same to be seized, sequestered, and sold, or possession thereof delivered under such writs respectively, in the same manner as such courts could and might have done in the life-time of such testator or intestate as aforesaid.

In suits against executors, courts may order writs of sequestration.

V. And it is further declared and enacted, that all conveyances and assurances of such real estates of such *British* subjects and other persons so dying seised or entitled as aforesaid (not being Mahomedans or Gentoos), situate within or being under the general or local jurisdiction of such courts respectively as aforesaid, heretofore made and executed by executors and administrators of such deceased *British* subjects and other persons as aforesaid, are hereby confirmed, and shall be deemed, held, and taken to be of the same force, validity, and effect in law, as if the same had been made and executed by such deceased persons in their life-time.

Conveyances and assurances of such estates shall be deemed good.

VI. Provided nevertheless, and it is hereby declared and enacted, that neither this Act, nor any thing herein contained, shall be construed to operate as or have the effect of changing or altering the legal quality, nature, or tenure of any lands, houses, estates, rights, interests, or any other subject of property whatsoever, or of making the same or any of them to be of the nature of real property, if by law, before the passing of this Act, the same or any of them were personal property; but that the law in that respect shall be and continue the same as if this Act had not passed.

This Act not to alter the legal quality or tenure of any estates.

9 GEO. IV. A. D. 1828.

CHAPTER LXXIV.

An Act for improving the Administration of Criminal Justice in the East Indies.

[*25th July 1828.*]

WHEREAS many wholesome alterations have lately been made in the criminal law of England, and the administration thereof, by authority of Parliament; and it is expedient that some of the said alterations should be extended to the British territories under the government of the United Company of Merchants of England trading to the East Indies: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that this Act shall commence and take effect on and from the first day of March, one thousand eight hundred and twenty-nine, and shall extend to all persons and all places, as well on land as on the high seas, over whom or which the criminal jurisdiction of any of his Majesty's courts of justice erected or to be erected within the British territories under the government of the United Company of Merchants of England trading to the East Indies does or shall hereafter extend.

From the 1st of March 1829 this Act to take effect throughout the jurisdiction of the King's courts in the East Indies.

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Accessory to felony before the fact may be tried as such, or as a substantive felon, by any court which has jurisdiction to try the principal felon, although the offence be committed on the seas or abroad.

VII. AND for the more effectual prosecution of accessories before the fact to felony, be it enacted, that if any person shall counsel, procure, or command any other person to commit any felony, whether the same be a felony at common law or by virtue of any statute or statutes made or to be made, the person so counselling, procuring, or commanding shall be deemed guilty of felony, and may be indicted and convicted either as an accessory before the fact to the principal felony, together with the principal felon, or after the conviction of the principal felon, or may be indicted and convicted of a substantive felony, whether the principal felon shall or shall not have been previously convicted, or shall or shall not be amenable to justice, and may be punished in the same manner as any accessory before the fact to the same felony, if convicted as an accessory, may be punished; and the offence of the person so counselling, procuring, or commanding, howsoever indicted, may be inquired of, tried, determined, and punished by any court which shall have jurisdiction to try the principal felon, in the same manner as if such offence had been committed at the same place as the principal felony, although such offence may have been committed either on the high seas, or at any place on land, whether within his Majesty's dominions or without; and that in case the

If the offences of principal and accessory be committed in different places, accessory[a] may be

[a] *Sic.* in orig.

principal felony, and the offence of counselling, procuring, or commanding, shall have been committed in different places, the last-mentioned offence may be inquired of, tried, determined, and punished in any of his Majesty's courts of justice within the British territories under the government of the said United Company having jurisdiction to try either of the said offences: Provided always, that no person who shall be once duly tried for any such offence, whether as any accessory before the fact or as for a substantive felony, shall be liable to be again indicted or tried for the same offence.

tried in any of the King's courts in India having jurisdiction.

No person to be tried twice for the same offence.

VIII. And be it enacted, that if any person shall become an accessory after the fact to any felony, whether the same be a felony at common law, or by virtue of any statute or statutes made or to be made, the offence of such person may be inquired of, tried, determined, and punished by any court which shall have jurisdiction to try the principal felon, in the same manner as if the act by reason whereof such person shall have become an accessory had been committed at the same place as the principal felony, although such act may have been committed either on the high seas or at any place on land, whether within his Majesty's dominions or without; and that in case the principal felony, and the act by reason whereof any person shall have become accessory, shall have been committed in different places, the offence of such accessory may be inquired of, tried, determined, and punished in any of his Majesty's courts of justice within the British territories under the government of the said United Company, having jurisdiction to try either of the said offences: Provided always, that no person who shall be once duly tried for any offence of being an accessory shall be liable to be again indicted or tried for the same offence.

Accessory after the fact may be tried by any court which has jurisdiction to try the principal felon.

If the offences of principal and accessory be committed in different places, accessory may be tried in any court having jurisdiction.

No person to be tried twice for the same offence.

IX. And be it enacted, that if any principal offender shall be in anywise convicted of any felony, it shall be lawful to proceed against any accessory, either before or after the fact, in the same manner as if such principal felon had been attainted thereof, notwithstanding such principal felon shall die or be pardoned, or otherwise delivered before attainder; and every such accessory shall suffer the same punishment, if he or she be in anywise convicted, as he should have suffered if the principal had been attainted.

Accessory may be prosecuted after conviction of the principal though the principal die or be pardoned, or delivered before attainder.

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XXV. And be it enacted, that all offences prosecuted in any of his Majesty's courts of Admiralty shall, upon every first and subsequent conviction, be subject to the same punishments, whether of death or otherwise, as if such offence had been committed upon the land.

Admiralty offences.

XXVI. And be it enacted, that wherever this or any other statute relating to any offence, whether punishable upon indictment or summary conviction, in describing or referring to the offence or the subject matter thereof, or the

Rule for interpreting all criminal statutes.

offender, or the party affected or intended to be affected by the offence, shall use words importing the singular number or the masculine gender only, yet the statute shall be understood to include several matters as well as one matter, and several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, unless it be otherwise specially provided, or there be something in the subject or context repugnant to such construction; and wherever any forfeiture or penalty is payable to a party aggrieved, it shall be payable to a body corporate in every case where such body shall be the party aggrieved.

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Provision for the trial of murder and manslaughter, where the cause of death only, but not the death, or where the death only, but not the cause of death, happens within the limits of the East India Company's charter.

LVI. And be it enacted, that where any person, being feloniously stricken, poisoned, or otherwise hurt at any place whatsoever, either upon the land or at sea, within the limits of the charter of the said United Company, shall die of such stroke, poisoning, or hurt at any place without those limits, or being feloniously stricken, poisoned, or otherwise hurt at any place whatsoever, either upon land or at sea, shall die of such stroke, poisoning, or hurt at any place within the limits aforesaid, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being accessory before or after the fact to murder or manslaughter, may be dealt with, inquired of, tried, determined, and punished by any of his Majesty's courts of justice within the British territories under the government of the said United Company, in the same manner in all respects as if such offence had been wholly committed within the jurisdiction of the court within the jurisdiction of which such offender shall be apprehended or be in custody.

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10 GEO. IV. A. D. 1829.

Chapter LXII.

An Act to exclude Persons accepting Offices in the East Indies from being Members of the House of Commons. [*24th June 1829.*]

Whereas by an Act passed in the sixth year of the reign of Queen Anne intituled "An Act for the security of her Majesty's person and government, and of the succession to the crown of Great Britain in the protestant line," it is amongst other things enacted, that no person who should be a governor or deputy governor of any of the plantations should be capable of being elected or of sitting or voting as a member of the House of Commons: And whereas doubts have been entertained how far the provisions of the said

6 Anne, c. 41.

Act extend to persons holding the office of governor general or of governor of any of the settlements or presidencies under the authority of the East India Company: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that no person who shall be hereafter appointed governor or deputy governor of any of the settlements, presidencies, territories, or plantations of the said East India Company shall be capable of being elected or of sitting or voting as a member of the House of Commons while he shall continue to hold such office.

No person appointed governor, &c. in India shall be capable of sitting in the House of Commons.

II. And be it further enacted, that if any person hereby declared to be incapable to sit or vote as a member of the House of Commons shall nevertheless be returned as a member to serve in Parliament, such election and return are hereby enacted and declared to be void; and if any person declared by this Act incapable of being elected shall sit or vote as a member of the House of Commons, such person so sitting or voting shall forfeit the sum of five hundred pounds, to such person or persons who shall sue for the same in any of his Majesty's courts at Westminster; and the money so forfeited shall be recovered by the persons so suing, with full costs of suit, in any of the said courts, by action of debt, bill, plaint, or information, in which no essoign, privilege, protection, or wager of law, or more than one imparlance, shall be allowed.

Election of such persons declared void.

Penalty on persons so sitting or voting, 500*l.*

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1 WILLIAM IV. A. D. 1830-31.

Chapter IV.

An Act to render valid Acts done by the Governor of any of His Majesty's Plantations after the Expiration of his Commission by the Demise of His late Majesty, and to extend the Period within which the Patents of Governors of Colonies shall on any future Demise of the Crown become vacant, and to provide for the longer Duration of the Patents of Governors after the Demise of the Crown. [*23rd December 1830.*]

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II. And be it further enacted, that no patent, commission, warrant, or other authority, for the exercise of any office or employment, civil or military, within any of his Majesty's plantations or possessions abroad, determinable at the pleasure of his Majesty, or of any of his Majesty's heirs and successors, shall by reason of any future demise of the crown be vacated or become void until the expiration of eighteen calendar months next after any such demise of the crown as aforesaid.

Patents, &c. for exercise of offices abroad shall not hereafter determine until eighteen months after demise of the crown.

2 & 3 WILLIAM IV. A. D. 1831-32.

CHAPTER LI.

An Act to regulate the Practice and the Fees in the Vice Admiralty Courts Abroad, and to obviate Doubts as to their Jurisdiction. [a]

[*23rd June 1832.*]

WHEREAS it is expedient that provision should be made for the regulation of the practice to be observed in the suits and proceedings in the courts of vice admiralty in his Majesty's possessions abroad, and for the establishment of fees to be allowed and taken in the said courts by the respective judges, officers, and practitioners therein: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that it shall be lawful for his Majesty, with the advice of his privy council, from time to time to make and ordain such rules and regulations as shall be deemed expedient touching the practice to be observed in suits and proceedings in the several courts of vice admiralty at present or hereafter to be established in any of his Majesty's possessions abroad, and likewise from time to time to make, ordain, and establish tables of fee to be taken or received by the judges, officers, and practitioners in the said courts, for all acts to be done therein, and also from time to time, as shall be found expedient, to alter any such rules, regulations, and fees, and to make any new regulations and table or tables of fees; and that all such rules, regulations, and fees, after the same shall have been so made and established or altered, from time to time be entered or inrolled in the public books or records of the said courts, so far as such practice and fees shall relate or apply to each of such courts respectively.

His Majesty may make regulations and establish fees in the vice admiralty courts abroad, and alter the same.

Regulations and fees to be inrolled in the respective courts.

II. AND be it further enacted, that a copy of every table of fees so to be from time to time made and established or altered shall be laid before the House of Commons within three calendar months next after the making and establishment or alteration thereof respectively, if Parliament shall be then sitting, and if not, then within one calendar month next after the subsequent meeting of Parliament.

The tables of fees to be laid before the House of Commons.

III. AND be it further enacted, that the several fees so to be established, and no other, shall, from and after the making and establishment thereof and the entry and inrolment thereof as aforesaid, be deemed and taken to be the lawful fees of the several judges, officers, ministers, and practitioners of the said respective courts; and such fees only shall and may be demanded, received, and taken accordingly.

Fees so established to be the only lawful fees.

[a Repealed, save as regards her Majesty's possessions in India 26 & 27 Vict. c. 24. s. 24.]

IV. And to the intent that all such regulations and fees may be promulgated and publicly made known, be it further enacted, that the judge and registrar of every such court shall cause to be kept constantly hung up and preserved in some conspicuous part of every such court, and in the office of th registrar, a copy of the table of fees so to be from time to time ordained and established in such courts respectively, so that the said table may be seen and read by all persons having any business in any such court and office respectively; and that the books or records containing the entries of the said regulations and tables of fees, as the same shall be in force, shall be at all seasonable time open to the inspection of the practitioners and suitors in every such court.

Copies of the regulations and tables of fees to be hung up in each court, &c.

V. And be it further enacted, that in all cases in which proceedings may be had in any of the said vice admiralty courts, if any person shall feel himself aggrieved by the charges made by any of the officers or practitioners therein, and the allowance thereof by such vice admiralty court, by reason that such charges are not warranted by the tables herein-before mentioned, it shall be lawful for such person or his agent, under the regulations to be established in pursuance of the powers given by this Act, by summary application to the High Court of Admiralty to have the said charges taxed by the authority thereof.

Persons aggrieved may apply to the High Court of Admiralty for taxation of costs.

VI. And whereas in certain cases doubts may arise as to the jurisdiction of vice admiralty courts in his Majesty's possessions abroad, with respect to suits for seamen's wages, pilotage, bottomry, damage to a ship by collision, contempt in breach of the regulations and instructions relating to his Majesty's service at sea, salvage, and droits of Admiralty: Be it therefore enacted, that in all cases where a ship or vesssl, or the master thereof, shall come within the local limits of any vice admiralty court, it shall be lawful for any person to commence proceedings in any of the suits herein-before mentioned in such vice admiralty court, notwithstanding the cause of action may have arisen out of the local limits of such court, and to carry on the same in the same manner as if the cause of action had arisen within the said limits.

Vice admiralty courts to have jurisdiction in certain maritime causes, though the cause of action did not arise within the local limits of the court.

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2 & 3 WILLIAM IV. A. D. 1831-32.

Chapter LIII.

An Act for consolidating and amending the Laws relating to the Payment of Army Prize Money. [*23rd June 1832.*]

Whereas it is expedient to consolidate and bring into one Act all the provisions of the several Acts now in force relating to army prize money, and to alter and amend several of the provisions thereof: . . . . . .

All captures hereafter made by the army, &c. shall be disposed of as his Majesty shall direct.

II. And be it further enacted, that from and after the passing of this Act, in all captures which shall be made by his Majesty's army, royal artillery, provincial, black, and all other troops in the pay or service of his Majesty, or belonging to his Majesty but in the pay of the United Company of Merchants trading to the East Indies, or howsoever otherwise paid, of any fortress or possession of his Majesty's enemies, or of any ship or vessel in any road, river, haven, or creek belonging to such fortress or possession, and in all captures, expeditions, or actions from which prize money, bounty money, or grant shall arise, the commanders and other officers and soldiers engaged therein shall have such right and interest as his Majesty shall think fit to order in all the arms, ammunition, stores of war, goods, merchandize, booty, prize, and treasure belonging to the state, or to any public trading company of such enemies, which shall be found in such fortress or possession, or captured in or granted for any such expedition or action, to be divided in such proportions, and according to such general rule of distribution for the army, as shall be established by his Majesty, or in default thereof in such manner as his Majesty shall under his sign manual be pleased to direct.

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In all conjunct expeditions, after adjudication by a court of admiralty, the shares of the army, as soon as ascertained, to be paid over to the treasurer of Chelsea Hospital for distribution.

XXIX. And be it further enacted, that in all conjunct expeditions of his Majesty's land and naval forces, from and after the adjudication of all and every ship or vessel, with their arms, ammunition, tackle, apparel, and furniture, and all the goods, merchandize, and other effects on board the same, and of every other matter or thing subject to such adjudication which shall be captured in any road, haven, river, or creek belonging to such fortress or possession, or otherwise, as lawful prize to his Majesty, in any of his Majesty's courts of admiralty or vice admiralty which shall be duly authorized to take cognizance of the same, and which courts are hereby required to proceed therein to lawful adjudication, the share and proportion of his Majesty's army, royal artillery, provincial, black, and other troops in the pay of or belonging to his Majesty, or in the pay of the United Company of Merchants trading to the East Indies, shall, as soon as such shares shall be ascertained, be paid over to the treasurer of Chelsea Hospital, in order that the same may be distributed, subject to the provisions, penalties, rules, remedies, and regulations of this Act.

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3 & 4 WILLIAM IV. A. D. 1833.

CHAPTER XV.

An Act to amend the Laws relating to Dramatic Literary Property.

[*10th June 1833.*]

WHEREAS by an Act passed in the fifty-fourth year of the reign of his late Majesty King George the Third, intituled "An Act to amend the "several Acts for the encouragement of learning by securing the copies and "copyright of printed books to the authors of such books or their assigns," it was amongst other things provided and enacted, that from and after the passing of the said Act the author of any book or books composed, and not printed or published, or which should thereafter be composed and printed and published, and his assignee or assigns, should have the sole liberty of printing and re-printing such book or books for the full term of twenty-eight years, to commence from the day of first publishing the same, and also, if the author should be living at the end of that period, for the residue of his natural life: And whereas it is expedient to extend the provisions of the said Act: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act the author of any tragedy, comedy, play, opera, farce, or any other dramatic piece or entertainment, composed and not printed and published by the author thereof or his assignee, or which hereafter shall be composed and not printed or published by the author thereof or his assignee, or the assignee of such author, shall have as his own property the sole liberty of representing, or causing to be represented, at any place or places of dramatic entertainment whatsoever, in any part of the United Kingdom of Great Britain and Ireland, in the Isles of Man, Jersey, and Guernsey, or in any part of the British dominions, any such production as aforesaid, not printed and published by the author thereof or his assignee, and shall be deemed and taken to be the proprietor thereof; and that the author of any such production, printed and published within ten years before the passing of this Act by the author thereof or his assignee, or which shall hereafter be so printed and published, or the assignee of such author, shall, from the time of passing this Act, or from the time of such publication respectively, until the end of twenty-eight years from the day of such first publication of the same, and also, if the author or authors, or the survivor of the authors, shall be living at the end of that period, during the residue of his natural life, have as his own property the sole liberty of representing, or

54 Geo. 3. c. 156. s. 4.

The author of any dramatic piece or his assignee shall have as his property the sole liberty of representing it when not published;

and after publication for 28 years or during author's life.

causing to be represented, the same at any such place of dramatic entertainment as aforesaid, and shall be deemed and taken to be the proprietor thereof: Provided nevertheless, that nothing in this Act contained shall prejudice, alter, or affect the right or authority of any person to represent or cause to be represented, at any place or places of dramatic entertainment whatsoever, any such production as aforesaid, in all cases in which the author thereof or his assignee shall, previously to the passing of this Act, have given his consent to or authorized such representation; but that such sole liberty of the author or his assignee shall be subject to such right or authority.

Proviso as to cases where, previously to the passing of this Act, consent has been given to such representation.

II. And be it further enacted, that if any person shall, during the continuance of such sole liberty as aforesaid, contrary to the intent of this Act or right of the author or his assignee, represent, or cause to be represented, without the consent in writing of the author or other proprietor first had and obtained, at any place of dramatic entertainment within the limits aforesaid, any such production as aforesaid, or any part thereof, every such offender shall be liable for each and every such representation to the payment of an amount not less than forty shillings, or to the full amount of the benefit or advantage arising from such representation, or the injury or loss sustained by the plaintiff therefrom, whichever shall be the greater damages, to the author or other proprietor of such production so represented contrary to the true intent and meaning of this Act, to be recovered, together with double costs of suit, by such author or other proprietors, in any court having jurisdiction in such cases in that part of the said United Kingdom or of the British dominions in which the offence shall be committed; and in every such proceeding where the sole liberty of such author or his assignee as aforesaid shall be subject to such right or authority as aforesaid, it shall be sufficient for the plaintiff to state that he has such sole liberty, without stating the same to be subject to such right or authority, or otherwise mentioning the same.

Penalty on persons representing pieces contrary to this Act.

III. Provided nevertheless, and be it further enacted, that all actions or proceedings for any offence or injury that shall be committed against this Act shall be brought, sued, and commenced within twelve calender months next after such offence committed, or else the same shall be void and of no effect.

Limitation of actions.

IV. And be it further enacted, that whenever authors, persons, offenders, or others are spoken of in this Act in the singular number or in the masculine gender, the same shall extend to any number of persons and to either sex.

Explanation of words.

3 & 4 WILLIAM IV. A. D. 1833.

Chapter XLI.

An Act for the better Administration of Justice in His Majesty's Privy Council.

[*14th August 1833.*]

Whereas by virtue of an Act passed in a session of Parliament of the second and third years of the reign of his present Majesty, intituled "An "Act for transferring the powers of the High Court of Delegates, both "in ecclesiastical and maritime causes, to his Majesty in council," it was enacted, that from and after the first day of February one thousand eight hundred and thirty-three it should be lawful for every person who might theretofore, by virtue either of an Act passed in the twenty-fifth year of the reign of King Henry the Eighth, intituled "The submission of the clergy and "restraint of appeals," or of an Act passed in the eighth year of the reign of Queen Elizabeth, intituled "For the avoiding of tedious suits in civil and marine causes," have appealed or made suit to his Majesty in his High Court of Chancery, to appeal or make suit to the King's Majesty, his heirs or successors, in council, within such time, in such manner, and subject to such rules, orders, and regulations for the due and more convenient proceeding, as should seem meet and necessary, and upon such security, if any, as his Majesty, his heirs and successors, should from time to time by order in council direct: And whereas, by letters patent under the great seal of Great Britain, certain persons, members of his Majesty's privy council, together with others, being judges and barons of his Majesty's courts of record at Westminster, have been from time to time appointed to be his Majesty's commissioners for receiving, hearing, and determining appeals from his Majesty's courts of admiralty in causes of prize: And whereas, from the decisions of various courts of judicature in the East Indies, and in the plantations, colonies, and other dominions of his Majesty abroad, an appeal lies to his Majesty in council: And whereas matters of appeal or petition to his Majesty in council have usually been heard before a committee of the whole of his Majesty's privy council, who have made a report to his Majesty in council, whereupon the final judgment or determination hath been given by his Majesty: And whereas it is expedient to make certain provisions for the more effectual hearing and reporting on appeals to his Majesty in council and on other matters, and to give such powers and jurisdiction to his Majesty in council as herein-after mentioned: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled,

2 & 3 Will. 4. c. 92.

25 Hen. 8. c. 19.

8 Eliz. c. 5.

Certain members of privy council to form a committee to be styled "The Judicial Committee of the Privy Council."

and by the authority of the same, that the president for the time being of his Majesty's privy council, the lord high chancellor of Great Britain for the time being, and such of the members of his Majesty's privy council as shall from time to time hold any of the offices following, that is to say, the office of lord keeper or first lord commissioner of the great seal of Great Britain, lord chief justice or judge of the Court of King's Bench, master of the rolls, vice chancellor of England, lord chief justice or judge of the Court of Common Pleas, lord chief baron or baron of the Court of Exchequer, ... judge of the High Court of Admiralty, and chief judge of the Court in Bankruptcy, and also all persons, members of his Majesty's privy council, who shall have been president thereof or held the office of lord chancellor of Great Britain, or shall have held any of the other offices herein-before mentioned, shall form a committee of his Majesty's said privy council, and shall be styled "The Judicial Committee of the Privy Council": Provided nevertheless, that it shall be lawful for his Majesty from time to time, as and when he shall think fit, by his sign manual, to appoint any two other persons, being privy councillors, to be members of the said committee.

Appeals from courts of admiralty or vice admiralty courts abroad, &c. shall be made to the King in council.

II. And be it further enacted, that from and after the first day of June one thousand eight hundred and thirty-three all appeals or applications in prize suits and in all other suits or proceedings in the courts of admiralty, or vice admiralty courts, or any other court in the plantations in America and other his Majesty's dominions or elsewhere abroad, which may now by virtue of any law, statute, commission, or usage, be made to the High Court of Admiralty in England, or to the lords commissioners in prize cases, shall be made to his Majesty in council, and not to the said High Court of Admiralty in England or to such commissioners as aforesaid; and such appeals shall be made in the same manner and from and within such time wherein such appeals might, if this Act had not been passed, have been made to the said High Court of Admiralty or to the lords commissioners in prize cases respectively; and that all laws or statutes now in force with respect to any such appeals or applications shall apply to any appeals to be made in pursuance of this Act to his Majesty in council.

Appeals to King in council from sentence of any judge, &c. shall be referred to the committee, to report thereon.

III. And be it further enacted, that all appeals or complaints in the nature of appeals whatever, which either by virtue of this Act, or of any law, statute, or custom, may be brought before his Majesty or his Majesty in council from or in respect of the determination, sentence, rule, or order of any court, judge, or judicial officer, and all such appeals as are now pending and unheard, shall from and after the passing of this Act be referred by his Majesty to the said judicial committee of his privy council, and that such appeals, causes, and matters shall be heard by the said judical committee, and a report or recom-

mendation thereon shall be made to his Majesty in council for his decision thereon as heretofore, in the same manner and form as has been heretofore the custom with respect to matters referred by his Majesty to the whole of his privy council or a committee thereof (the nature of such report or recommendation being always stated in open court).

IV. And be it further enacted, that it shall be lawful for his Majesty to refer to the said judicial committee for hearing or consideration any such other matters whatsoever as his Majesty shall think fit; and such committee shall thereupon hear or consider the same, and shall advise his Majesty thereon in manner aforesaid.

His Majesty may refer any other matters to the committee.

V. And be it further enacted, that . . . . no report or recommendation shall be made to his Majesty unless a majority of the members of such judicial committee present at the hearing shall concur in such report or recommendation: Provided always, that nothing herein contained shall prevent his Majesty, if he shall think fit, from summoning any other of the members of his said privy council to attend the meetings of the said committee.

No report to be made unless with concurrence of majority present. Other members of council may be summoned to attend.

VI. And be it further enacted, that in case his Majesty shall be pleased, by directions under his sign manual, to require the attendance at the said committee for the purposes of this Act of any member or members of the said privy council who shall be a judge or judges of the Court of King's Bench, or of the Court of Common Pleas, or of the Court of Exchequer, such arrangements for dispensing with the attendance of such judge or judges upon his or their ordinary duties during the time of such attendance at the privy council as aforesaid shall be made by the judges of the court or courts to which such judge or judges shall belong respectively in regard to the business of the court, and by the judges of the said three courts, or by any eight or more of such judges, including the chiefs of the several courts, in regard to all other duties, as may be necessary and consistent with the public service.

If his Majesty directs the attendance of any member who is a judge, the other judges of the court to which he belongs shall arrange with regard to the business of the court.

VII. And be it enacted, that it shall be lawful for the said judicial committee, in any matter which shall be referred to such committee, to examine witnesses by word of mouth (and either before or after examination by deposition), or to direct that the depositions of any witness shall be taken in writing by the registrar of the said privy council to be appointed by his Majesty as herein-after mentioned, or by such other person or persons, and in such manner, order, and course, as his Majesty in council or the said judicial committee shall appoint and direct; and that the said registrar and such other person or persons so to be appointed shall have the same powers as are now possessed by an examiner of the High Court of Chancery or of any court ecclesiastical.

Committee may take evidence vivâ voce, or upon written depositions.

Committee may order any particular witnesses to be examined, and as to any particular facts, and may remit causes for rehearing.

VIII. And be it enacted, that in any matter which shall come before the said judicial committee it shall be lawful for the said committee to direct that such witnesses shall be examined or re-examined, and as to such facts as to the said committee shall seem fit, notwithstanding any such witness may not have been examined, or no evidence may have been given on any such facts in a previous stage of the matter; and it shall also be lawful for his Majesty in council, on the recommendation of the said committee, upon any appeal, to remit the matter which shall be the subject of such appeal to the court from the decision of which such appeal shall have been made, and at the same time to direct that such court shall rehear such matter, in such form, and either generally or upon certain points only, and upon such rehearing take such additional evidence, though before rejected, or reject such evidence before admitted, as his Majesty in council shall direct; and further, on any such remitting or otherwise, it shall be lawful for his Majesty in council to direct that one or more feigned issue or issues shall be tried in any court in any of his Majesty's dominions abroad, for any purpose for which such issue or issues shall to his Majesty in council seem proper.

Witnesses to be examined on oath, and to be liable to punishment for perjury.

IX. And be it enacted, that every witness who shall be examined in pursuance of this Act shall give his or her evidence upon oath, or if a Quaker or Moravian upon solemn affirmation, which oath and affirmation respectively shall be administered by the said judicial committee and registrar, and by such other person or persons as his Majesty in council or the said judicial committee shall appoint; and that every such witness who shall wilfully swear or affirm falsely shall be deemed guilty of perjury, and shall be punished accordingly.

Committee may direct feigned issues;

X. And be it enacted, that it shall be lawful for the said judicial committee to direct one or more feigned issue or issues to be tried in any court of common law, and either at bar, before a judge of assize, or at the sittings for the trial of issues in London or Middlesex, and either by a special or common jury, in like manner and for the same purpose as is now done by the High Court of Chancery.

and may, in certain cases, direct depositions to be read, &c. at the trial of the issue;

XI. And be it enacted, that it shall be in the discretion of the said judicial committee to direct that, on the trial of any such issue, the depositions already taken of any witness who shall have died, or who shall be incapable to give oral testimony, shall be received in evidence; and further, that such deeds, evidences, and writings shall be produced, and that such facts shall be admitted, as to the said committee shall seem fit.

and may make orders as to the admission of witnesses;

XII. And be it enacted, that it shall be lawful for the said judicial committee to make such and the like orders respecting the admission of persons, whether parties or others, to be examined as witnesses upon the trial of any such issues as aforesaid, as the lord high chancellor or the Court of Chancery

has been used to make respecting the admission of witnesses upon the trial of issues directed by the lord chancellor or the Court of Chancery.

XIII. And be it enacted, that it shall be lawful for the said judicial committee to direct one or more new trial or new trials of any issue, either generally or upon certain points only; and that in case any witness examined at a former trial of the same issue shall have died, or have, through bodily or mental disease or infirmity, become incapable to repeat his testimony, it shall be lawful for the said committee to direct that parol evidence of the testimony of such witness shall be received.

and may direct new trials of issues.

XIV. And whereas by an Act passed in the thirteenth year of his late Majesty King George the Third, and intituled "An Act for establishing certain "regulations for the better management of the affairs of the East India "company, as well in India as in Europe," and by an Act passed in the first year of the reign of his present Majesty, and intituled "An Act to enable the "courts of law to order the examination of witnesses upon interrogatories "and otherwise," certain powers are given to certain courts therein mentioned to enforce and provisions are made for the examination of witnesses by commission, upon interrogatories and otherwise: Be it therefore further enacted, that all the powers and provisions contained in the two last-mentioned Acts, or either of them, shall extend to and be exercised by the said judicial committee in all respects as if such committee had been therein named as one of his Majesty's courts of law at Westminster.

Powers of 13 Geo. 3. c. 63. and 1 Will. 4. c. 22. shall extend to the judicial committee.

XV. And be it enacted, that the costs incurred in the prosecution of any appeal or matter referred to the said judicial committee, and of such issues as the same committee shall under this Act direct, shall be paid by such party or parties, person or persons, and be taxed by the aforesaid registrar, or such other person or persons, to be appointed by his Majesty in council or the said judicial committee, and in such manner as the said committee shall direct.

Costs to be in the discretion of the committee.

XVI. And be it further enacted, that the orders or decrees of his Majesty in council made, in pursuance of any recommendation of the said judicial committee, in any matter of appeal from the judgment or order of any court or judge, shall be enrolled for safe custody in such manner, and the same may be inspected and copies thereof taken under such regulations, as his Majesty in council shall direct.

Decrees to be enrolled.

XVII. And be it further enacted, that it shall be lawful for the said committee to refer any matters to be examined and reported on to the aforesaid registrar, or to such other person or persons as shall be appointed by his Majesty in council or by the said judicial committee, in the same manner and for the like purposes as matters are referred by the Court of Chancery to a master of the said court; and that for the purposes of this Act the said

Committee may refer matters to registrar in the same manner as matters are by the Court of Chancery referred to a master.

registrar and the said person or persons so to be appointed shall have the same powers and authorities as are now possessed by a master in Chancery.

His Majesty may appoint registrar.

XVIII. And be it further enacted, that it shall be lawful for his Majesty, under his sign manual, to appoint any person to be the registrar of the said privy council, as regards the purposes of this Act, and to direct what duties shall be performed by the said registrar.

Attendance of witnesses, and production of papers, &c., may be compelled by subpœna.

XIX. And be it further enacted, that it shall be lawful for the president for the time being of the said privy council to require the attendance of any witnesses, and the production of any deeds, evidences, or writings, by writ to be issued by such president in such and the same form, or as nearly as may be, as that in which a writ of subpœna ad testificandum or of subpœna duces tecum is now issued by his Majesty's Court of King's Bench at Westminster; and that every person disobeying any such writ so to be issued by the said president shall be considered as in contempt of the said judicial committee, and shall also be liable to such and the same penalties and consequences as if such writ had issued out of the said Court of King's Bench, and may be sued for such penalties in the said court.

Time of appealing.

XX. And be it further enacted, that all appeals to his Majesty in council shall be made within such times respectively within which the same may now be made, where such time shall be fixed by any law or usage, and where no such law or usage shall exist, then within such time as shall be ordered by his Majesty in council; and that, subject to any right subsisting under any charter or constitution of any colony or plantation, it shall be lawful for his Majesty in council to alter any usage as to the time of making appeals, and to make any order respecting the time of appealing to his Majesty in council.

Decrees on appeals from courts abroad to be carried into effect as the King in council shall direct.

XXI. And be it further enacted, that the order or decree of his Majesty in council on any appeal from the order, sentence, or decree of any court of justice in the East Indies, or of any colony, plantation, or other his Majesty's dominions abroad, shall be carried into effect in such manner, and subject to such limitations and conditions, as his Majesty in council shall, on the recommendation of the said judicial committee, direct; and it shall be lawful for his Majesty in council, on such recommendation, by order to direct that such court of justice shall carry the same into effect accordingly, and thereupon such court of justice shall have the same powers of carrying into effect and enforcing such order or decree as are possessed by or are hereby given to his Majesty in council: Provided always, that nothing in this Act contained shall impeach or abridge the powers, jurisdiction, or authority of his Majesty's privy council as heretofore exercised by such council, or in anywise alter the constitution or duties of the said privy council, except so far as the same are expressly altered by this Act, and for the purposes aforesaid.

Saving of powers, &c. of privy council, except as hereby altered.

XXII. And whereas various appeals to his Majesty in council from the courts of Sudder Dewanny Adawlut at the several presidencies of Calcutta, Madras, and Bombay in the East Indies, have been admitted by the said courts, and the transcripts of the proceedings in appeal have been from time to time transmitted under the seal of the said courts, through the united company of merchants in England trading to the East Indies, to the office of his Majesty's said privy council, but the suitors in the causes so appealed have not taken the necessary measures to bring on the same to a hearing: Be it therefore further enacted by the authority aforesaid, that it shall be lawful for his Majesty in council to give such directions to the said united company and other persons for the purpose of bringing to a hearing before the said committee the several cases appealed or hereafter to be appealed to his Majesty in council from the several courts of Sudder Dewanny Adawlut in the East Indies, and for appointing agents and counsel for the different parties in such appeals, and to make such orders for security and payment of the costs thereof, as his said Majesty in council shall think fit; and thereupon such appeals shall be heard and reported on to his Majesty in council, and shall be by his Majesty in council determined in the same manner, and the judgments, orders, and decrees of his Majesty in council thereon shall be of the same force and effect, as if the same had been brought to a hearing by the direction of the parties appealing in the usual course of proceeding: Provided always, that such last-mentioned powers shall not extend to any appeals from the said courts of Sudder Dewanny Adawlut other than appeals in which no proceedings have been or shall hereafter be taken in England on either side for a period of two years subsequent to the admission of the appeal by such Court of Sudder Dewanny Adawlut. [Repealed, Stat. Law Rev. Act, 1861.]

His Majesty may direct the East India Company to bring on appeals from the Sudder Dewanny Adawlut courts to a hearing, &c.

XXIII. And be it enacted, that in any case where any order shall have been made on any such appeal as last aforesaid, the same shall have full force and effect notwithstanding the death of any of the parties interested therein; but that in all cases where any such appeal may have been withdrawn or discontinued, or any compromise made in respect of the matter in dispute, before the hearing thereof, then the determination of his Majesty in council in respect of such appeal shall have no effect.

Orders made on such appeals to have effect notwithstanding death of parties, &c.

XXIV. And be it further enacted, that it shall be lawful for his Majesty in council from time to time to make any such rules and orders as may be thought fit for the regulating the mode, form, and time of appeal to be made from the decisions of the said courts of Sudder Dewanny Adawlut, or any other courts of judicature in India or elsewhere to the eastward of the Cape of Good Hope ffrom the decisions of which an appeal lies to his Majesty in council), and in like manner from time to time to make such other regulations for the preventing delays in the making or hearing such appeals, and as to the expences attending the said appeals, and as to the amount or value of the property in respect of which any such appeal may be made.

His Majesty may make orders for regulating the mode, &c. of appeals.

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XXVIII. And be it enacted, that the said judicial committee shall have and enjoy in all respects such and the same power of punishing contempts and of compelling appearances, and that his Majesty in council shall have and enjoy

Power of enforcing decrees.

in all respects such and the same powers of enforcing judgments, decrees, and orders, as are now exercised by the High Court of Chancery or the Court of King's Bench (and both in personam and in rem), ...

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Two retired Indian or colonial judges attending the judicial committee shall receive an allowance.

XXX. And be it enacted, that two members of his Majesty's privy council who shall have held the office of judge in the East Indies or any of his Majesty's dominions beyond the seas, and who, being appointed for that purpose by his Majesty, shall attend the sittings of the judicial committee of the privy council, shall severally be entitled to receive over and above any annuity granted to them in respect of having held such office as aforesaid, the sum of four hundred pounds for every year during which they shall so attend as aforesaid, as an indemnity for the expence which they may thereby incur; and such sum of four hundred pounds shall be chargeable upon and paid out of the consolidated fund of the United Kingdom of Great Britain and Ireland.

Saving as to treaties with foreign countries appointing certain persons to hear prize appeals.

XXXI. Provided always, and be it enacted, that nothing herein contained shall be held to impeach or render void any treaty or engagement already entered into by or on behalf of his Majesty, or be taken to restrain his Majesty from acceding to any treaty, with any foreign prince, potentate, or power, in which treaty it shall be stipulated that any person or persons other than the said judicial committee shall hear and finally adjudicate appeals from his Majesty's courts of admiralty in causes of prize; but that the judgments, decrees, and orders of such other person or persons so appointed by treaty shall be of the same force and effect of which they would respectively have been if this Act had not been passed.

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3 & 4 WILLIAM IV. A. D. 1833.

Chapter LXXXV.

An Act for effecting an Arrangement with the East India Company, and for the better Government of His Majesty's Indian Territories, till the Thirtieth Day of April One thousand eight hundred and fifty-four.

[*28th August 1833.*]

53 Geo. 3. c. 155.

Whereas by an Act passed in the fifty-third year of the reign of his Majesty King George the Third, intituled "An Act for continuing in the East India Company for a further term the possession of the British territories in India, together with certain exclusive privileges, for establishing further regulations for the government of the said territories, and the better administration of justice within the same, and for regulating the trade to and from the places within the limits of the said company's

charter," the possession and government of the British territories in India were continued in the United Company of Merchants of England trading to the East Indies for a term therein mentioned: And whereas the said company are entitled to or claim the lordships and islands of St. Helena and Bombay under grants from the crown, and other property to a large amount in value, and also certain rights and privileges not affected by the determination of the term granted by the said recited Act: And whereas the said company have consented that all their rights and interests to or in the said territories, and all their territorial and commercial, real and personal assets and property whatsoever, shall, subject to the debts and liabilities now affecting the same, be placed at the disposal of Parliament in consideration of certain provisions herein-after mentioned, and have also consented that their right to trade for their own profit in common with other his Majesty's subjects be suspended during such time as the government of the said territories shall be confided to them: And whereas it is expedient that the said territories now under the government of the said company be continued under such government, but in trust for the crown of the United Kingdom of Great Britain and Ireland, and discharged of all claims of the said company to any profit therefrom to their own use, except the dividend herein-after secured to them, and that the property of the said company be continued in their possession and at their disposal, in trust for the crown, for the service of the said government and other purposes in this Act mentioned: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that from and after the twenty-second day of April one thousand eight hundred and thirty-four the territorial acquisitions and revenues mentioned or referred to in the said Act of the fifty-third year of his late Majesty King George the Third, together with the port and island of Bombay, and all other territories now in the possession and under the government of the said company, except the island of St. Helena, shall remain and continue under such government until the thirtieth day of April one thousand eight hundred and fifty-four; and that all the lands and hereditaments, revenues, rents, and profits of the said company, and all the stores, merchandize, chattels, monies, debts, and real and personal estate whatsoever, except the said island of St. Helena, and the stores and property thereon herein-after mentioned, subject to the debts and liabilities now affecting the same respectively, and the benefit of all contracts, covenants, and engagements, and all rights to fines, penalties, and forfeitures, and other emoluments whatsoever, which the said company shall be seised or possessed of or entitled unto on the said twenty-second day of April one thousand eight hundred and thirty-four

The British territories in India to remain under the government of the company till 30th April 1854.

Real and personal property of the company to be held in trust for the crown, for the service of India.

shall remain and be vested in, and be held, received, and exercised respectively, according to the nature and quality, estate and interest of and in the same respectively, by the said company, in trust for his Majesty, his heirs and successors, for the service of the government of India, discharged of all claims of the said company to any profit or advantage therefrom to their own use, except the dividend on their capital stock secured to them as herein-after is mentioned, subject to such powers and authorities for the superintendence, direction, and control over the acts, operations, and concerns of the said company as have been already made or provided by any Act or Acts of Parliament in that behalf, or are made or provided by this Act.

All privileges, powers &c granted by 53 Geo 3. c. 155 for the term thereby limited;

and all enactments not repugnant to this Act;

II. And be it enacted, that all and singular the privileges, franchises, abilities, capacities, powers, authorities, whether military or civil, rights, remedies, methods of suit, penalties, forfeitures, disabilities, provisions, matters, and things whatsoever granted to or continued in the said united company by the said Act of the fifty-third year of King George the Third, for and during the term limited by the said Act, and all other the enactments, provisions, matters, and things contained in the said Act, or in any other Act or Acts whatsoever, which are limited or may be construed to be limited to continue for and during the term granted to the said company by the said Act of the fifty-third year of King George the Third, so far as the same or any of them are in force, and not repealed by or repugnant to the enactments herein-after contained, and all powers of alienation and disposition, rights, franchises, and immunities, which the said united company now have, shall continue and be in force, and may be exercised and enjoyed, as against all persons whomsoever, subject to the superintendence, direction, and control herein-before mentioned, until the thirtieth day of April one thousand eight hundred and fifty-four.

as also all rights and immunities of the company, to be in force till 30th April 1854, subject to control.

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His Majesty may appoint commissioners for the affairs of India.

XIX. And be it enacted, that it shall and may be lawful for his Majesty by any letters patent, or by any commission or commissions to be issued under the great seal of Great Britain, from time to time to nominate, constitute, and appoint, during pleasure, such persons as his Majesty shall think fit to be, and who shall accordingly be and be styled, commissioners for the affairs of India; and every enactment, provision, matter, and thing relating to the commissioners for the affairs of India in any other Act or Acts contained, so far as the same are in force and not repealed by or repugnant to this Act, shall be deemed and taken to be applicable to the commissioners to be nominated as aforesaid.

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The board of commissioners to control all

XXV. And be it enacted, that the said board shall have and be invested with full power and authority to superintend, direct, and control all acts,

operations, and concerns of the said company which in anywise relate to or concern the government or revenues of the said territories, or the property hereby vested in the said company in trust as aforesaid, and all grants of salaries, gratuities, and allowances, and all other payments and charges whatever, out of or upon the said revenues and property respectively, except as herein-after is mentioned.

acts of the company concerning India &c.

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XXXVI. Provided also, and be it enacted, that if the said board shall be of opinion that the subject matter of any of their deliberations concerning the levying war or making peace, or treating or negotiating with any of the native princes or states in India, or with any other princes or states, or touching the policy to be observed with respect to such princes or states, intended to be communicated in orders, dispatches, official letters or communications, to any of the governments or presidencies in India, or to any officers or servants of the said company, shall be of a nature to require secrecy, it shall and may be lawful for the said board to send their orders, dispatches, official letters or communications, to the secret committee of the said court of directors to be appointed as is by this Act directed, who shall thereupon, without disclosing the same, transmit the same according to the tenor thereof, or pursuant to the directions of the said board, to the respective governments and presidencies, officers and servants; and that the said governments and presidencies, officers and servants, shall be bound to pay a faithful obedience thereto, in like manner as if such orders, dispatches, official letters or communications had been sent to them by the said court of directors.

If the board are of opinion that any matters wherein Indian or other states are concerned require secrecy, the board may send official communications through secret committee.

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XXXVIII. And be it enacted, that the territories now subject to the government of the presidency of Fort William in Bengal shall be divided into two distinct presidencies, one of such presidencies, in which shall be included Fort William aforesaid, to be styled the Presidency of Fort William in Bengal, and the other of such presidencies to be styled the Presidency of Agra; and that it shall be lawful for the said court of directors, under the control by this Act provided, and they are hereby required, to declare and appoint what part or parts of any of the territories under the government of the said company shall from time to time be subject to the government of each of the several presidencies now subsisting or to be established as aforesaid, and from time to time, as occasion may require, to revoke and alter, in the whole or in part, such appointment, and such new distribution of the same, as shall be deemed expedient.

Presidency of Fort William in Bengal to be divided into two presidencies.

The court of directors to declare the limits from time to time of the several presidencies.

XXXIX. And be it enacted, that the superintendence, direction, and

Government

of India vested in governor general and counsellors.

control of the whole civil and military government of all the said territories and revenues in India shall be and is hereby vested in a governor general and counsellors, to be styled "The Governor General of India in Council."

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All such laws and regulations to be of the same force as any Act of Parliament.

XLV. PROVIDED also, and be it enacted, that all laws and regulations made as aforesaid, so long as they shall remain unrepealed, shall be of the same force and effect within and throughout the said territories as any Act of Parliament would or ought to be within the same territories, and shall be taken notice of by all courts of justice whatsoever within the same territories, in the same manner as any public Act of Parliament would and ought to be taken notice of; and it shall not be necessary to register or publish in any court of justice any laws or regulations made by the said governor general in council.

Registration unnecessary.

Restriction as to giving the power of punishing with death European subjects, &c.

XLVI. PROVIDED also, and be it enacted, that it shall not be lawful for the said governor general in council, without the previous sanction of the said court of directors, to make any law or regulation whereby power shall be given to any courts of justice, other than the courts of justice established by his Majesty's charters, to sentence to the punishment of death any of his Majesty's natural-born subjects born in Europe, or the children of such subjects, or which shall abolish any of the courts of justice established by his Majesty's charters.

The court of directors to submit to the board rules for the procedure of the governor general in council, &c.

XLVII. AND be it enacted, that the said court of directors shall forthwith submit, for the approbation of the said board, such rules as they shall deem expedient for the procedure of the governor general in council in the discharge and exercise of all powers, functions, and duties imposed on or vested in him by virtue of this Act, or to be imposed or vested in him by any other Act or Acts; which rules shall prescribe the modes of promulgation of any laws or regulations to be made by the said governor general in council, and of the authentication of all acts and proceedings whatsoever of the said governor general in council; and such rules, when approved by the said board of commissioners, shall be of the same force as if they had been inserted in this Act: Provided always, that such rules shall be laid before both Houses of Parliament in the session next after the approval thereof.

Quorum of governor general and members in council.

XLVIII. PROVIDED always, and be it enacted, that all laws and regulations shall be made at some meeting of the council at which the said governor general and at least three of the ordinary members of council shall be assembled, and that all other functions of the said governor general in council may be exercised by the said governor general and one or more ordinary member or members of council; and that in every case of difference of opinion at

meetings of the said council where there shall be an equality of voices, the said governor general shall have two votes or the casting vote.

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LI. Provided always, and be it enacted, that nothing herein contained shall extend to affect in any way the right of Parliament to make laws for the said territories and for all the inhabitants thereof; and it is expressly declared that a full, complete, and constantly existing right and power is intended to be reserved to Parliament to control, supersede, or prevent all proceedings and acts whatsoever of the said governor general in council, and to repeal and alter at any time any law or regulation whatsoever made by the said governor general in council, and in all respects to legislate for the said territories and all the inhabitants thereof in as full and ample a manner as if this Act had not been passed; and the better to enable Parliament to exercise at all times such right and power, all laws and regulations made by the said governor general in council shall be transmitted to England, and laid before both Houses of Parliament, in the same manner as is now by law provided concerning the rules and regulations made by the several governments in India.

Nothing in this Act to affect the right of Parliament to legislate for India, &c.

Laws and regulations made by governor general in council to be laid before Parliament.

LII. And be it enacted, that all enactments, provisions, matters, and things relating to the governor general of Fort William in Bengal in council, and the governor general of Fort William in Bengal alone, respectively, in any other Act or Acts contained, so far as the same are now in force, and not repealed by or repugnant to the provisions of this Act, shall continue and be in force and be applicable to the governor general of India in council, and to the governor general of India alone, respectively.

All enactments relating to governor general of Fort William shall apply to governor general of India in council and alone.

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LVI. And be it enacted, that the executive government of each of the several presidencies of Fort William in Bengal, Fort Saint George, Bombay, and Agra shall be administered by a governor and three councillors, to be styled "The Governor in Council of the said Presidencies of Fort William in "Bengal, Fort Saint George, Bombay, and Agra respectively"; and the said governor and councillors respectively of each such presidency shall have the same rights and voices in their assemblies, and shall observe the same order and course in their proceedings, as the governors in council of the presidencies of Fort Saint George and Bombay now have and observe; . . . . . .

The executive government of the presidencies to be administered by a governor and three councillors.

LVII. Provided always, and be it enacted, that it shall and may be lawful for the said court of directors, under such control as is by this Act provided, to revoke and suspend, so often and for such periods as the said court shall in that behalf direct, the appointment of councils in all or any of the said presidencies, or to reduce the number of councillors in all or any of the said

Directors may revoke the appointment of councils, or reduce the number of councillors.

councils; and during such time as a council shall not be appointed in any such presidency the executive government thereof shall be administered by a governor alone.

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The governors of the presidencies to have the powers and immunities of the present governors of Madras and Bombay, but not to make or suspend laws or create officers, &c.

LIX. And be it enacted, that in the presidencies in which the appointment of a council shall be suspended under the provision herein-before contained, and during such time as councils shall not be appointed therein respectively, the governors appointed under this Act, and in the presidencies in which councils shall from time to time be appointed the said governors in their respective councils, shall have all the rights, powers, duties, functions, and immunities whatsoever, not in anywise repugnant to this Act, which the governors of Fort Saint George and Bombay in their respective councils now have within their respective presidencies; and that the governors and members of council of presidencies appointed by or under this Act shall severally have all the rights, powers, and immunities respectively, not in anywise repugnant to this Act, which the governors and members of council of the presidencies of Fort Saint George and Bombay respectively now have in their respective presidencies; provided that no governor or governor in council shall have the power of making or suspending any regulations or laws in any case whatever, unless in cases of urgent necessity (the burthen of the proof whereof shall be on such governor or governor in council), and then only until the decision of the governor general of India in council shall be signified thereon; and provided also, that no governor or governor in council shall have the power of creating any new office, or granting any salary, gratuity, or allowance, without the previous sanction of the governor general of India in council.

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Power for the court to make provisional appointments to any offices.

[LXI. [a]] And be it enacted, that it shall be lawful for the said court of directors to appoint any person or persons provisionally to succeed to any of the offices aforesaid, for supplying any vacancy or vacancies therein, when the same shall happen by the death or resignation of the person or persons holding the same office or offices respectively, or on his or their departure from India with intent to return to Europe, or on any event or contingency expressed in any such provisional appointment or appointments to the same respectively, and such appointments again to revoke: Provided that every provisional appointment to the several offices of governor general of India, governor of a presidency, and the member of council of India by this Act directed to be appointed from amongst persons who shall not be servants of the said company, shall be subject to the approbation of his Majesty, to be signified as

Provisional appointments of certain officers to be approved by his Majesty.

[a So much of section 61 as relates to vacancies in the office of ordinary member of the council of India, repealed, 24 & 25 Vict. c. 67. s. 2.]

aforesaid; but that no person so appointed to succeed provisionally to any of the said offices shall be entitled to any authority, salary, or emolument appertaining thereto, until he shall be in the actual possession of such office.

In case of vacancy in the office of governor general, and no successor upon the spot, the ordinary member of council next in rank to act as governor general.

LXII. And be it enacted, that if any vacancy shall happen in the office of governor general of India when no provisional or other successor shall be upon the spot to supply such vacancy, then and in every such case the ordinary member of council next in rank to the said governor general shall hold and execute the said office of governor general of India and governor of the presidency of Fort William in Bengal, until a successor shall arrive, or until some other person on the spot shall be duly appointed thereto; and that every such acting governor general shall, during the time of his continuing to act as such, have and exercise all the rights and powers of governor general of India, and shall be entitled to receive the emoluments and advantages appertaining to the office by him supplied, such acting governor general foregoing his salary and allowance of a member of council for the same period.

Provision in case of a vacancy in the office of governor of any of the subordinate presidencies, and no successor on the spot.

LXIII. And be it enacted, that if any vacancy shall happen in the office of governor of Fort Saint George, Bombay, or Agra, when no provisional or other successor shall be upon the spot to supply such vacancy, then and in every such case, if there shall be a council in the presidency in which such vacancy shall happen, the member of such council, who shall be next in rank to the governor, other than the commander in chief or officer commanding the forces of such presidency, and if there shall be no council, then the secretary of government of the said presidency who shall be senior in the said office of secretary, shall hold and execute the said office of governor until a successor shall arrive, or until some other person on the spot shall be duly appointed thereto; and that every such acting governor shall, during the time of his continuing to act as such, receive and be entitled to the emoluments and advantages appertaining to the office by him supplied, such acting governor foregoing all salaries and allowances by him held and enjoyed at the time of his being called to supply such office.

Provision in case of a vacancy in the office of a member of council when no successor on the spot.

[LXIV.[a]] And be it enacted, that if any vacancy shall happen in the office of an ordinary member of council of India when no person provisionally or otherwise appointed to succeed thereto shall be then present on the spot, then and on every such occasion such vacancy shall be supplied by the appointment of the governor general in council; and if any vacancy shall happen in the office of a member of council of any presidency when no person provisionally or otherwise appointed to succeed thereto shall be then present on the spot, then and on every such occasion such vacancy shall be supplied by the

[[a] So much of section 64 as relates to vacancies in the office of ordinary member of the council of India, repealed, 24 & 25 Vict. c. 67. s. 2.]

appointment of the governor in council of the presidency in which such vacancy shall happen; and until a successor shall arrive the person so nominated shall execute the office by him supplied, and shall have all the powers thereof, and shall have and be entitled to the salary and other emoluments and advantages appertaining to the said office during his continuance therein, every such temporary member of council foregoing all salaries and allowances by him held and enjoyed at the time of his being appointed to such office: Provided always, that no person shall be appointed a temporary member of council who might not have been appointed by the said court of directors to fill the vacancy supplied by such temporary appointment.

The governor general in council to have the control over the presidencies.

LXV. And be it further enacted, that the said governor general in council shall have and be invested by virtue of this Act with full power and authority to superintend and control the governors and governors in council of Fort William in Bengal, Fort Saint George, Bombay, and Agra, in all points relating to the civil or military administration of the said presidencies respectively, and the said governors and governors in council shall be bound to obey such orders and instructions of the said governor general in council in all cases whatsoever.

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Powers of governors not to be suspended by visit of governor general.

LXVII. And be it enacted, that when the said governor general shall visit any of the presidencies of Fort Saint George, Bombay, or Agra, the powers of the governors of those presidencies respectively shall not by reason of such visit be suspended.

Communications to be transmitted by governors to governor general in council.

LXVIII. And be it enacted, that the said governors and governors in council of the said presidencies of Fort William in Bengal, Fort Saint George, Bombay, and Agra respectively shall and they are hereby respectively required regularly to transmit to the said governor general in council true and exact copies of all such orders and acts of their respective governments, and also advice and intelligence of all transactions and matters which shall have come to their knowledge, and which they shall deem material to be communicated to the said governor general in council as aforesaid, or as the said governor general in council shall from time to time require.

The governor general in council may appoint a deputy governor of Bengal as exigencies may require.

LXIX. And be it enacted, that it shall be lawful for the said governor general in council, as often as the exigencies of the public service may appear to him to require, to appoint such one of the ordinary members of the said council of India as he may think fit to be deputy governor of the said presidency of Fort William in Bengal; and such deputy governor shall be invested with all the powers and perform all the duties of the said governor of the presidency of Fort William in Bengal, but shall receive no additional salary by reason of such appointment.

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LXXI. And be it enacted, that there shall not, by reason of the division of the territories now subject to the government of the presidency of Fort William in Bengal into two presidencies as aforesaid, be any separation between the establishments and forces thereof respectively, or any alteration in the course and order of promotion and succession of the company's servants in the same two presidencies respectively; but that all the servants, civil and military, of the Bengal establishments and forces shall and may succeed and be appointed to all commands and offices within either of the said presidencies respectively as if this Act had not been passed.

The new presidency of Agra not to affect the succession to commands and offices in Bengal and Agra.

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LXXIII. And be it enacted, that it shall be lawful for the said governor general in council from time to time to make articles of war for the government of the native officers and soldiers in the military service of the company, and for the administration of justice by courts-martial to be holden on such officers and soldiers, and such articles of war from time to time to repeal or vary and amend; and such articles of war shall be made and taken notice of in the same manner as all other the laws and regulations to be made by the said governor general in council under this Act, and shall prevail and be in force, and shall be of exclusive authority over all the native officers and soldiers in the said military service, to whatever presidency such officers and soldiers may belong, or wheresoever they may be serving: Provided nevertheless, that until such articles of war shall be made by the said governor general in council, any articles of war for or relating to the government of the company's native forces, which at the time of this Act coming into operation shall be in force and use in any part or parts of the said territories, shall remain in force.

Articles of war to be made by governor general in council.

LXXIV. And be it enacted, that it shall be lawful for his Majesty, by any writing under his sign manual, countersigned by the president of the said board of commissioners, to remove or dismiss any person holding any office, employment, or commission, civil or military, under the said company in India, and to vacate any appointment or commission of any person to any such office or employment; provided that a copy of every such writing, attested by the said president, shall, within eight days after the same shall be signed by his Majesty, be transmitted or delivered to the chairman or deputy chairman of the said company.

His Majesty may remove any officer of the company in India.

LXXV. Provided always, and be it enacted, that nothing in this Act contained shall take away the power of the said court of directors to remove or dismiss any of the officers or servants of the said company, but that the said court shall and may at all times have full liberty to remove or dismiss any of such officers or servants at their will and pleasure; provided that any servant

The power of the directors to remove their servants preserved.

of the said company appointed by his Majesty through the default of appointment by the said court of directors shall not be dismissed or removed without his Majesty's approbation, as herein-before is mentioned.

Salaries of governor general, &c.

LXXVI. And be it enacted, that there shall be paid to the several officers herein-after named the several salaries set against the names of such officers, subject to such reduction of the said several salaries respectively as the said court of directors, with the sanction of the said board, may at any time think fit; (that is to say,)

To the governor general of India, two hundred and forty thousand sicca rupees:

To each ordinary member of the council of India, ninety-six thousand sicca rupees:

To each governor of the presidencies of Fort Saint George, Bombay, and Agra, one hundred and twenty thousand sicca rupees:

To each member of any council to be appointed in any presidency, sixty thousand sicca rupees:

And the salaries of the said officers respectively shall commence from their respectively taking upon them the execution of their respective offices; and the said salaries shall be the whole profit or advantage which the said officers shall enjoy during their continuance in such offices respectively; and it shall be and it is hereby declared to be a misdemeanor for any such officer to accept for his own use, in the discharge of his office, any present, gift, donation, gratuity, or reward, pecuniary or otherwise whatsoever, or to trade or traffic for his own benefit or for the benefit of any other person or persons whatsoever; and the said court of directors are hereby required to pay to all and singular the officers and persons herein-after named who shall be resident in the United Kingdom at the time of their respective appointments, for the purpose of defraying the expences of their equipment and voyage, such sums of money as are set against the names of such officers and persons respectively; (that is to say,)

Acceptance of gratuities, &c a misdemeanor.

Expences of equipment and voyage.

To the governor general, five thousand pounds:

To each member of the council of India, one thousand two hundred pounds:

To each governor of the presidencies of Fort Saint George, Bombay, and Agra, two thousand five hundred pounds:

Provided also, that any governor general, governor, or member of council appointed by or by virtue of this Act, who shall at the time of passing this Act hold the office of governor general, governor, or member of council respectively, shall receive the same salary and allowances that he would have received if this Act had not been passed.

LXXVII. Provided always, and be it enacted, that if any governor general, governor, or ordinary member of the council of India, or any member of the council of any presidency, shall hold or enjoy any pension, salary, or any place, office, or employment of profit under the crown or any public office or the said company, or any annuity payable out of the civil or military fund of the said company, the salary of his office of governor general of India, governor or member of council, shall be reduced by the amount of the pension, salary, annuity, or profits of office so respectively held or enjoyed by him.

Governor general and governors, &c. to forego pensions, &c. from the crown or company while they hold office.

LXXVIII. And be it enacted, that the said court of directors, with the approbation of the said board of commissioners, shall and may from time to time make regulations for the division and distribution of the patronage and power of nomination of and to the offices, commands, and employments in the said territories, and in all or any of the presidencies thereof, among the said governor general in council, governor general, governors in council, governors, commander in chief, and other commanding officers respectively appointed or to be appointed under this Act.

Directors to make regulations for the distribution of patronage in India.

LXXIX. And be it enacted, that the return to Europe or the departure from India with intent to return to Europe of any governor general of India, governor, member of council, or commander in chief, shall be deemed in law a resignation and avoidance of his office or employment; and that no act or declaration of any governor general, or governor, or member of council, other than as aforesaid, excepting a declaration in writing under hand and seal, delivered to the secretary for the public department of the presidency wherein he shall be, in order to its being recorded, shall be deemed or held as a resignation or surrender of his said office; and that the salary and other allowances of any such governor general or other officer respectively shall cease from the day of such his departure, resignation, or surrender; and that if any such governor general or member of council of India shall leave the said territories, or if any governor or other officer whatever in the service of the said company shall leave the presidency to which he shall belong, other than in the known actual service of the said company, the salary and allowances appertaining to his office shall not be paid or payable during his absence to any agent or other person for his use; and in the event of his not returning, or of his coming to Europe, his salary and allowances shall be deemed to have ceased on the day of his leaving the said territories, or the presidency to which he may have belonged; provided that it shall be lawful for the said company to make such payment as is now by law permitted to be made to the representatives of their officers or servants who, having left their stations intending to return thereto, shall die during their absence.

Departure of governor general, &c. for Europe, to be a resignation.

Resignation in India to by deed.

Salary to cease on departure or resignation.

Payment to representatives of officers dying during absence.

Disobedience of orders and breach of trust by officers or servants of the company in India, misdemeanors.

LXXX. And be it enacted, that every wilful disobeying, and every wilful omitting, forbearing, or neglecting to execute the orders or instructions of the said court of directors by any governor general of India, governor, member of council, or commander in chief, or by any other of the officers or servants of the said company, unless in cases of necessity (the burthen of the proof of which necessity shall be on the person so disobeying or omitting, forbearing or neglecting, to execute such orders or instructions as aforesaid), and every wilful breach of the trust and duty of any office or employment by any such governor general, governor, member of council, or commander in chief, or any of the officers or servants of the said company, shall be deemed and taken to be a misdemeanor at law, and shall or may be proceeded against and punished as such by virtue of this Act.

His Majesty's subjects may reside in certain parts of India without license.

LXXXI. And be it enacted, that it shall be lawful for any natural-born subjects of his Majesty to proceed by sea to any port or place having a custom house establishment within the said territories, and to reside thereat, or to proceed to and reside in or pass through any part of such of the said territories as were under the government of the said company on the first day of January one thousand eight hundred, and in any part of the countries ceded by the nabob of the Carnatic, of the province of Cuttack, and of the settlements of Singapore and Malacca, without any licence whatever; . . . . .

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The governor general in council, with previous consent of directors, may declare other places open.

LXXXIII. Provided always, and be it enacted, that it shall be lawful for the said governor general in council, with the previous consent and approbation of the said court of directors for that purpose obtained, to declare any place or places whatever within the said territories open to all his Majesty's natural-born subjects, and it shall be thenceforth lawful for any of his Majesty's natural-born subjects to proceed to or reside in or pass through any place or places declared open, without any license whatever.

Laws against illicit residence to be made.

LXXXIV. And be it enacted, that the said governor general in council shall and he is hereby required, as soon as conveniently may be, to make laws or regulations providing for the prevention or punishment of the illicit entrance into or residence in the said territories of persons not authorized to enter or reside therein.

Laws and regulations to be made for protection of natives.

LXXXV. And whereas the removal of restrictions on the intercourse of Europeans with the said territories will render it necessary to provide against any mischiefs or dangers that may arise therefrom: Be it therefore enacted, that the said governor general in council shall and he is hereby required, by laws or regulations, to provide with all convenient speed for the protection of the natives of the said territories from insult and outrage in their persons, religions or opinions.

LXXXVI. And be it enacted, that it shall be lawful for any natural-born subject of his Majesty authorized to reside in the said territories to acquire and hold lands, or any right, interest, or profit in or out of lands, for any term of years, in such part or parts of the said territories as he shall be so authorized to reside in: Provided always, that nothing herein contained shall be taken to prevent the said governor general in council from enabling, by any laws or regulations, or otherwise, any subjects of his Majesty to acquire or hold any lands, or rights, interests, or profits in or out of lands, in any part of the said territories, and for any estates or terms whatever.

Lands within the Indian territories may be purchased.

LXXXVII. And be it enacted, that no native of the said territories, nor any natural-born subject of his Majesty resident therein, shall, by reason only of his religion, place of birth, descent, colour, or any of them, be disabled from holding any place, office, or employment under the said company.

No disability for office under the company in respect of religion, colour, &c.

LXXXVIII. And be it further enacted, that the said governor general in council shall and he is hereby required forthwith to take into consideration the means of mitigating the state of slavery, and of ameliorating the condition of slaves, and of extinguishing slavery throughout the said territories so soon as such extinction shall be practicable and safe, and from time to time to prepare and transmit to the said court of directors drafts of laws or regulations for the purposes aforesaid; and that in preparing such drafts due regard shall be had to the laws of marriage and the rights and authorities of fathers and heads of families; and that such drafts shall forthwith after receipt thereof be taken into consideration by the said court of directors, who shall, with all convenient speed, communicate to the said governor general in council their instructions on the drafts of the said laws and regulations; but no such laws and regulations shall be promulgated or put in force without the previous consent of the said court; and the said court shall, within fourteen days after the first meeting of Parliament in every year, lay before both Houses of Parliament a report of the drafts of such rules and regulations as shall have been received by them, and of their resolutions or proceedings thereon.

Slavery to be mitigated, and abolished as soon as practicable.

LXXXIX. And whereas the present diocese of the bishoprick of Calcutta is of too great an extent for the incumbent thereof to perform efficiently all the duties of the office without endangering his health and life; and it is therefore expedient to diminish the labours of the bishop of the said diocese, and for that purpose to make provision for assigning new limits to the diocese of the said bishop, and for founding and constituting two separate and distinct bishopricks, but nevertheless the bishops thereof to be subordinate and subject to the bishop of Calcutta for the time being, and his successors, as their metropolitan: Be it therefore enacted, that in case it shall please his Majesty to erect, found, and constitute two bishopricks, one to be styled the bishoprick of

If the King erects bishopricks of

Madras and Bombay, certain salaries to be paid to the bishops.

Madras and the other the bishoprick of Bombay, and from time to time to nominate and appoint bishops to such bishopricks under the style and title of bishops of Madras and Bombay respectively, there shall be paid from and out of the revenues of the said territories to such bishops respectively the sum of twenty-four thousand sicca rupees by the year.

Such salaries to commence from time of taking office, and to be in lieu of all fees, &c.

XC. And be it enacted, that the said salaries shall commence from the time at which such persons as shall be appointed to the said office of bishop shall take upon them the execution of their respective offices; and that such salaries shall be in lieu of all fees of office, perquisites, emoluments, or advantages whatsoever; and that no fees of office, perquisites, emoluments, or advantages whatsoever shall be accepted, received, or taken by such bishop or either of them, in any manner or on any account or pretence whatsoever, other than the salaries aforesaid; and that such bishops respectively shall be entitled to such salaries so long as they shall respectively exercise the functions of their several offices in the British territories aforesaid.

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Jurisdiction of such bishops.

XCII. Provided always, and be it enacted, that such bishops shall not have or use any jurisdiction, or exercise any episcopal functions whatsoever, either in the said territories or elsewhere, but only such jurisdiction and functions as shall or may from time to time be limited to them respectively by his Majesty by his royal letters patent under the great seal of the said United Kingdom.

The King may by letters patent assign limits to the dioceses, &c.

XCIII. And be it enacted, that it shall and may be lawful for his Majesty from time to time, if he shall think fit, by his royal letters patent under the great seal of the said United Kingdom, to assign limits to the diocese of the bishoprick of Calcutta and to the dioceses of the said bishopricks of Madras and Bombay respectively, and from time to time to alter and vary the same limits respectively, as to his Majesty shall seem fit, and to grant to such bishops respectively within the limits of their respective dioceses the exercise of episcopal functions, and of such ecclesiastical jurisdiction as his Majesty shall think necessary for the superintendence and good government of the ministers of the United Church of England and Ireland therein.

The bishop of Calcutta to be metropolitan in India.

XCIV. Provided always, and be it enacted, that the bishop of Calcutta for the time being shall be deemed and taken to be the metropolitan bishop in India, and as such shall have, enjoy, and exercise all such ecclesiastical jurisdiction and episcopal functions, for the purposes aforesaid, as his Majesty shall by his royal letters patent under the great seal of the said United Kingdom think necessary to direct, subject nevertheless to the general superintendence and revision of the archbishop of Canterbury for the time being; and that the bishops of Madras and Bombay for the time being respectively

shall be subject to the bishop of Calcutta for the time being as such metropolitan, and shall, at the time of their respective appointments to such bishopricks, or at the time of their respective consecrations as bishop, take an oath of obedience to the said bishop of Calcutta in such manner as his Majesty by his said royal letters patent shall be pleased to direct.

Warrants for bills on letters patent appointing bishops to be countersigned by the president of the board.

XCV. And be it enacted, that when and as often as it shall please his Majesty to issue any letters patent respecting the bishoprick of Calcutta, Madras, or Bombay, or for the nomination or appointment of any person thereto respectively, the warrant for the bill in every such case shall be countersigned by the president of the board of commissioners for the affairs of India, and by no other person.

The King may grant certain pensions to bishops of Madras and Bombay.

XCVI. And be it enacted, that it shall and may be lawful for his Majesty, his heirs and successors, by warrant under his royal sign manual, countersigned by the chancellor of the Exchequer for the time being, to grant to any such bishop of Madras or Bombay respectively, who shall have exercised in the British territories aforesaid for fifteen years the office of such bishop, a pension not exceeding eight hundred pounds per annum, to be paid quarterly by the said company.

Payments in respect of salary of a bishop of Madras or Bombay dying while in office.

XCVII. And be it enacted, that in all cases when it shall happen the said person nominated and appointed to be bishop of either of the said bishopricks of Madras or Bombay shall depart this life within six calendar months next after the day when he shall have arrived in India for the purpose of taking upon him the office of such bishop, there shall be payable out of the territorial revenues from which the salary of such bishop so dying shall be payable, to the legal personal representatives of such bishop, such sum or sums of money as shall, together with the sum or sums paid to or drawn by such bishop in respect of his salary, make up the full amount of one year's salary; and when and so often as it shall happen that any such bishop shall depart this life while in possession of such office, and after the expiration of six calendar months from the time of his arrival in India for the purpose of taking upon him such office, then and in every such case there shall be payable, out of the territorial revenues from which the salary of the said bishop so dying shall be payable, to his legal personal representatives, over and above what may have been due to him at the time of his death, a sum equal to the full amount of the salary of such bishop for six calendar months.

Provision for reckoning residence of bishop of Madras or Bombay, if translated to Calcutta, &c.

XCVIII. And be it enacted, that if it shall happen that either of the bishops of Madras or Bombay shall be translated to the bishoprick of Calcutta, the period of residence of such person as bishop of Madras or Bombay shall be accounted for and taken as a residence as bishop of Calcutta; and if any person now an archdeacon in the said territories shall be appointed bishop of

Madras or Bombay, the period of his residence in India as such archdeacon shall for all the purposes of this Act be accounted for and taken as a residence as such bishop.

Provision for consecration of any person under the degree of a bishop, if resident in India, appointed to a bishoprick.

XCIX. PROVIDED also, and be it enacted, that if any person under the degree of a bishop shall be appointed to either of the bishopricks of Calcutta, Madras, or Bombay, who at the time of such appointment shall be resident in India, then and in such case it shall and may be lawful for the archbishop of Canterbury, when and as he shall be required so to do by his Majesty by his royal letters patent under the great seal of the said United Kingdom, to issue a commission under his hand and seal, to be directed to the two remaining bishops, authorizing and charging them to perform all such requisite ceremonies for the consecration of the person so to be appointed to the degree and office of a bishop.

Provision for expences of visitations of bishops of Madras and Bombay.

C. AND be it enacted, that the expences of visitations to be made from time to time by the said bishops of Madras and Bombay respectively shall be paid by the said company out of the revenues of the said territories; provided that no greater sum on account of such visitations be at any time issued than shall from time to time be defined and settled by the court of directors of the said company, with the approbation of the commissioners for the affairs of India.

No archdeacon to have a salary exceeding 3,000 sicca rupees.

CI. AND be it enacted, that no archdeacon hereafter to be appointed for the archdeaconry of the presidency of Fort William in Bengal, or the archdeaconry of the presidency of Fort Saint George, or the archdeaconry of the presidency and island of Bombay, shall receive in respect of his archdeaconry any salary exceeding three thousand sicca rupees per annum: Provided always, that the whole expence incurred in respect of the said bishops and archdeacons shall not exceed one hundred and twenty thousand sicca rupees per annum.

Proviso as to total expence of church establishment.

Two chaplains of the Church of Scotland to be on the establishment of each presidency.

CII. AND be it enacted, that of the establishment of chaplains maintained by the said company at each of the presidencies of the said territories two chaplains shall always be ministers of the Church of Scotland, and shall have and enjoy from the said company such salary as shall from time to time be allotted to the military chaplains at the several presidencies: Provided always, that the ministers of the Church of Scotland to be appointed chaplains at the said presidencies as aforesaid shall be ordained and inducted by the presbytery of Edinburgh according to the forms and solemnities used in the Church of Scotland, and shall be subject to the spiritual and ecclesiastical jurisdiction in all things of the presbytery of Edinburgh, whose judgments shall be subject to dissent, protest, and appeal to the provincial synod of Lothian and Tweedale and to the general assembly of the Church of Scotland: Provided always, that nothing herein contained shall be so construed as to prevent the governor

Proviso as to grants to other sects.

general in council from granting from time to time, with the sanction of the court of directors and of the commissioners for the affairs of India, to any sect, persuasion, or community of Christians not being of the United Church of England and Ireland, or of the Church of Scotland, such sums of money as may be expedient for the purpose of instruction or for the maintenance of places of worship.

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CXII. And be it enacted, that the island of Saint Helena, and all forts, factories, public edifices, and hereditaments whatsoever in the said island, and all stores and property thereon fit or used for the service of the government thereof, shall be vested in his Majesty, his heirs and successors; and the said island shall be governed by such orders as his Majesty in council shall from time to time issue in that behalf.

Saint Helena vested in the crown.

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3 & 4 WILLIAM IV. A. D. 1833.

Chapter XCIII.

An Act to regulate the Trade to China and India.

[*28th August 1833.*]

Whereas the exclusive right of trading with the dominions of the Emperor of China, and of trading in tea, now enjoyed by the United Company of Merchants of England trading to the East Indies, will cease from and after the twenty-second day of April one thousand eight hundred and thirty-four: And whereas it is expedient that the trade with China, and the trade in tea, should be open to all his Majesty's subjects, and that the restrictions imposed on the trade of his Majesty's subjects with places beyond the Cape of Good Hope to the Streights of Magellan, for the purpose of protecting the exclusive rights of trade heretofore enjoyed by the said company, should be removed: . . . . . .

II. And be it further enacted, that . . . . . it shall be lawful for any of his Majesty's subjects to carry on trade with any countries beyond the Cape of Good Hope to the Streights of Magellan.

All British subjects may trade beyond the Cape of Good Hope to the Streights of Magellan.

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4 & 5 WILLIAM IV. A. D. 1834.

CHAPTER XXIV.

An Act to alter, amend, and consolidate the Laws for regulating the Pensions, Compensations, and Allowances to be made to Persons in respect of their having held Civil Offices in His Majesty's Service. [*25th July 1834.*]

57 Geo. 3. c. 65.

6 Geo. 4. c. 90.

WHEREAS by an Act passed in the fifty-seventh year of the reign of his late Majesty King George the Third, to enable his Majesty to recompense the services of persons holding or who have held certain high and efficient civil offices, his Majesty is empowered to grant pensions, as therein provided, to persons who shall have served his Majesty, his heirs or successors, in the offices therein mentioned: And whereas by an Act passed in the sixth year of the reign of his late Majesty King George the Fourth, for amending the said recited Act, it is enacted, that the several other offices therein particularly described shall be deemed to be comprised in the several classes of offices in the said recited Act respectively specified: And whereas it is expedient that the amount of the pensions by the said two Acts authorized to be granted should as to future pensions be reduced, and the conditions under which the same shall be granted be altered and regulated: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act no pension to be granted to any person in respect of his having served in any one or more of the offices of first lord of the Treasury, or of one of his Majesty's principal secretaries of state, or chancellor of the Exchequer, or first lord of the Admiralty, or president of the board of commissioners for the affairs of India, or president of the committee of council appointed for the consideration of matters relating to trade and foreign plantations, shall exceed the sum of two thousand pounds per annum; nor shall any such pension be granted to any person unless he shall have held one or more of the said offices for a period of not less than two years in the whole, either uninterruptedly or at different times; nor shall any more or greater number than four such pensions hereafter to be granted be existing or in force at the same time. [Repealed, with savings, 32 & 33 Vict. c. 60. s. 9.]

Pensions to the first lord of the Treasury, secretaries of state, chancellor of the Exchequer, first lord of the Admiralty, president of the India Board, president of the Board of Trade;

II. AND be it further enacted, that from and after the passing of this Act no pension to be granted to any person in respect of his having served in either or both of the offices of chief secretary for Ireland or secretary at war shall exceed the sum of one thousand four hundred pounds per annum; nor shall any such pension be granted to any person unless he shall have held one or both of the said offices for a period of not less than five years in the whole, either uninterruptedly or at different times; nor shall any more or greater number than two such last-mentioned pensions be existing or in force at the same time. [Repealed, with savings, 32 & 33 Vict. c. 60. s. 9.]

to chief secretary of Ireland, secretary at war;

III. AND be it further enacted, that from and after the passing of this Act no pension to be granted to any person in respect of his having served in any one or more of the offices of one of the joint secretaries of the Treasury, or first secretary of the Admiralty, or vice president of the committee of commissioners appointed for the consideration of matters relating to trade and foreign plantations, shall exceed the sum of twelve hundred pounds per annum; nor shall any such pension be granted to any person unless he shall have held one or

to joint secretaries of the Treasury, first secretary of the Admiralty, vice president of Board of Trade,

more of the said offices for a period of not less than five years in the whole, either uninterruptedly or at different times; nor shall any more or greater number than four such last-mentioned pensions be existing or in force at the same time. [Repealed, with savings, 32 & 33 Vict. c. 60. s. 9.]

IV. And be it further enacted, that from and after the passing of this Act the pension, not exceeding one thousand pounds, authorized by the said recited Act to be granted to any person in respect of his having served in any one or more of the offices of one of the under secretaries of state, or clerk of the ordnance, or second secretary of the Admiralty, or one of the secretaries of the board of commissioners for the affairs of India, shall not be granted to any such person unless he shall have held one or more of the said offices for a period of not less than ten years in the whole, either uninterruptedly or at different times; nor shall any more or greater number than six such last-mentioned pensions be existing or in force at the same time. [Repealed, with savings, 32 & 33 Vict. c. 60. s. 9.]

to under secretaries of state, clerk of the ordnance, second secretary of the Admiralty, secretaries of India Board.

V. Provided always, and be it enacted, that in case it shall happen that any person shall have served his Majesty, his heirs or successors, in more than one class of offices herein-before specified, in respect whereof any pension less than two thousand pounds may be granted, it shall be lawful to grant, under the regulations aforesaid, to such person, any pension annexed to the highest class of office in which such person may have been employed, whenever the whole period of the service of such person in the several offices in which he shall have been employed shall amount to ten years, although the period of the service of such person in such highest class shall not have extended to the period of five years: Provided always, that such person shall have served in such highest class for the period of not less than three years; and in cases in which the service of any such person in any class of those offices shall not be sufficient to entitle him to the pension of that class, it shall be lawful to grant him a pension not exceeding one thousand pounds, provided the period of his aggregate services in that and any inferior class or classes or department of the public service shall amount to ten years: Provided also, that there shall not be more than the aforesaid number of pensions to that amount existing at the same time. [Repealed, with savings, 32 & 33 Vict. c. 60. s. 9.]

Regulation as to period of service.

VI. And whereas the principle of the regulations for granting allowances of this nature is and ought to be founded on a consideration, not only of the services performed by the individual to the state, but of the inadequacy of his private fortune to maintain his station in life: Be it therefore enacted, that from and after the passing of this Act, whenever any person shall seek to obtain any one of the pensions before mentioned, his application for that purpose shall be made in writing to the commissioners of his Majesty's Treasury, to which he shall subscribe his name, and which shall contain not only a statement of the services performed by him, and the grounds on which such pension is claimed, but a specific declaration that the amount of his income from other sources is so limited as to bring him within the intent and meaning of this Act and the principle herein-above declared; and without such declaration no pension as herein-before provided or authorized shall be granted.

Declaration to be made by persons claiming pensions for political services.

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Superannuation allowances to persons who entered the public service before 5th Aug. 1829.

IX. And be it further enacted, that from and after the passing of this Act the superannuation allowances to be granted to such officers and clerks who shall have entered the public service prior to the fifth day of August one thousand eight hundred and twenty-nine (except only as herein-after is authorized) shall not exceed the following proportions with reference to the amount of their salaries and the periods of their services respectively; (videlicet,)

To an officer, clerk, or person who shall have served ten years and upwards, and under fifteen years, any annual allowance not exceeding in amount four twelfths of the annual salary and emoluments of his office:

For fifteen years and upwards, and under twenty years, not exceeding five twelfths of such salary and emoluments:

For twenty years and upwards, and under twenty-five years, not exceeding six twelfths of such salary and emoluments:

For twenty-five years and upwards, and under thirty years, not exceeding seven twelfths of such salary and emoluments:

For thirty years and upwards, and under thirty-five years, not exceeding eight twelfths of such salary and emoluments:

For thirty-five years and upwards, and under forty years, not exceeding nine twelfths of such salary and emoluments:

For forty years and upwards, and under forty-five years, not exceeding ten twelfths of such salary and emoluments:

For forty-five years and upwards, and under fifty years, not exceeding eleven twelfths of such salary and emoluments:

And for fifty years or upwards, any annual allowance not exceeding the net amount of the salary and emoluments of his office.

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Allowances to be calculated on average amount of salary received for the three years before superannuation.

XII. Provided always, and be it further enacted, that the superannuation allowance to be granted to any officer or person after the passing of this Act shall not be computed upon the amount of the salary enjoyed by him at the time of his retirement, unless he shall have been in the receipt of the same, or in the class from which he retires, for a period of at least three years immediately before the granting of such superannuation allowance; and in case he shall not have enjoyed his then existing salary or have been in such class for that period, such superannuation allowance shall be calculated upon the average amount of salary received by such person for three years next preceding the commencement of such allowance.

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Compensation or superannuation

XVI. And be it further enacted, that no compensation hereafter to be made or superannuation allowance to be granted in respect of civil services to any

person entitled to half pay in the army, ordnance, navy, or marines, who shall have been appointed to the civil service subsequently to the fourth day of August one thousand eight hundred and twenty-nine, shall in any case, except as in this Act is specially provided, exceed in the whole (computing his half pay in such compensation or allowance) the amount of two-thirds of the salary and emoluments of the office relinquished by him: Provided always, that nothing in this Act contained shall extend or be construed to extend to entitle any superintendent of a dock yard or other establishment in the civil department of the navy, who shall have held any civil appointment prior to the fifth day of August one thousand eight hundred and twenty-nine, to any superannuation allowance under this Act beyond the amount stipulated by the terms on which he shall have accepted the office of superintendent, or the amount established by any order of his Majesty in council concerning superintendents.

allowances to half-pay military and naval officers for civil services not to exceed, with half-pay, two thirds of salary, except in special cases.

XVII. Provided always, and be it further enacted, that in any case in which it shall appear to the commissioners of his Majesty's Treasury that any special circumstances afford to any officer or clerk in the several offices or departments mentioned in the schedule to this Act, or in the addition authorized to be made thereto, who is not within the exceptions therein contained, a just claim to an amount of superannuation allowance not authorized by this Act, or exceeding the amount therein specified with reference to the length of his service, it shall be lawful for the commissioners of his Majesty's Treasury to grant or give authority for granting any special superannuation which such officer or clerk shall appear to them to deserve; but in every such case the grounds on which such special superannuation shall be granted or authorized shall be stated in the grant thereof, or in the authority for granting the same, and also entered in the minutes of the Treasury, and shall likewise be laid before Parliament within one month after the fifth day of January in each year, if Parliament be sitting during that period, or if not, then within one month after the ensuing meeting of Parliament. [Repealed, 22 Vict. c. 26. s. 1.]

Special allowances may be made in special cases.

The grounds for the grant to be stated and laid before Parliament.

XVIII. And be it further enacted, that no compensation for any office abolished, nor any special allowance or remuneration for good services to any person holding or having held any civil office in any public department, shall be charged upon the incidents or any other fund of any such department; and that no such compensation, nor any allowance or compensation in the nature of superannuation or retired allowance or reward to any such person in respect of his having held any public office or employment, or having been engaged in any public service, shall be granted, allowed, or paid, other than under the authority of an order of his Majesty in council, or by the commissioners of his Majesty's Treasury or any three or more of them.

No compensation on abolition of office, or special allowance, to be charged upon the funds of any department; and no compensation or superannuation allowance to be granted except by order of his Majesty in council.

XIX. And be it further enacted and provided, that every person to whom any compensation or allowance, in consequence of the abolition or reduction of office, shall hereafter be granted, shall at all times, when called upon, be liable to fill, in any part

All persons who have retired on abolition of

office shall be liable to take office when called upon, and shall forfeit compensation on refusal.

of his Majesty's dominions in which he shall have already served, any public office or situation under the crown for which his previous public services may render him eligible; and that if he shall decline, when called upon so to do, to take upon himself such office or situation, and execute the duties thereof satisfactorily, being in a competent state of health, he shall forfeit his right to any compensation or allowance which may have been granted to him in respect of any former services. [Repealed, 22 Vict. c. 26. s. 1.]

Superannuation allowance to be suspended or reduced during receipt of salary for efficient services.

XX. Provided always, and be it further enacted, that in case any person enjoying any superannuation allowance in consequence of retiring from office on account of age, infirmity, or any other cause, or enjoying any compensation for past services upon the abolition or reduction of office, shall be appointed to fill any office in any public department, every such allowance or compensation shall cease to be paid for any period subsequent to such appointment if the annual amount of the profits of the office to which he shall be appointed shall be equal to those of the office formerly held by him, and in case they shall not be equal to those of his former office then no more of such superannuation allowance or compensation shall be paid to him than what with the salary of his new appointment shall be equal to that of his former office.

Act not to extend to military or naval half pay, &c. except as herein-after provided.

XXI. Provided always, and be it further enacted, that nothing herein contained with respect to compensation, superannuation, or allowance for civil services, shall extend or be construed to extend to any military or naval half pay, or allowance in lieu of half pay, or to any military or naval allowance or pensions granted or to be granted under the regulations of any order of his Majesty in council, in any of the respective departments of the commissioners of the Admiralty, the secretary at war, and the master general of the ordnance, except as herein-after is provided with respect to the same.

Account of public offices, salaries, pensions and allowances, and of increase and diminution thereof, to be annually laid before Parliament.

XXII. And be it further enacted, that between the first day of February and the twenty-fifth day of March in every year, or if Parliament shall not be sitting during any part of that period, then within twenty days after the next meeting of Parliament, there shall be laid before both Houses of Parliament an account of every increase and diminution which shall have taken place within the preceding year, ending on the thirty-first day of December, in the number of persons employed in all public offices or departments under the crown, and in the salaries, emoluments, allowances, and expenses which shall have taken place or been paid, granted, received, or incurred for and in respect of all officers and persons belonging to or employed in all such public offices or departments, specifying the amount and nature thereof, and distinguishing every increase and diminution in the amount of all allowances or compensations granted as retired allowances or superannuations to any person having held any office, place, or employment in any such public office or department, and also the time and length of service of every such person, and the amount

of the salary and emoluments received by such person immediately preceding his superannuation or retirement, and the nature of his services, and the grounds upon which such increase or diminution in the establishment of every such public office or department, or of any such salary, emolument, allowance, compensation, or superannuation, shall have been granted or made; and also specifying the name of every person receiving such allowance or compensation who may have died in the course of the year, together with the amount of the annual allowance payable to such person.

Accounts of compensations and superannuation allowances to be laid before House of Commons annually.

XXIII. Provided always, and be it further enacted, that accounts of all compensations for offices abolished, and of all allowances in the nature of superannuation or retired allowances to all other persons in respect of their having held any public office or employment under the crown, shall annually, at the period lastly provided, be laid before the Commons House of Parliament.

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Half pay and military and naval pensions to be laid before Parliament in separate estimates.

XXV. Provided always, and be it further enacted, that all half pay and allowances in lieu of half pay in the several departments of the army, ordnance, navy, and marines, and all military and naval allowances or pensions granted or which shall be granted in any of such departments under the authority of any order in council, shall be annually laid before the Commons House of Parliament, in separate estimates, at the same time with the ordinary estimates of those respective departments, and shall be kept distinct from all pensions, compensations, superannuation and retired allowances in any of the civil offices of those departments respectively.

Compensations and superannuations not provided for to be charged on funds of departments.

XXVI. And be it further enacted, that the compensations, superannuations, and allowances authorized as well by this as any former Act or Acts shall when not specially provided for by Parliament, be charged upon and paid and payable by the respective departments or offices in which the persons receiving such allowances shall have served.

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Where fees form part of the emoluments of an office, an average shall be fixed by the head of the department, on which compensation, &c. shall be granted.

XXVIII. And be it further enacted, that it shall be lawful for the person or persons at the head of any department in which any fees or other sources of profit may form part of the emoluments of any office in such department, to fix, with the approbation of the commissioners of his Majesty's Treasury, or for the commissioners of the Admiralty if the office shall be in that department, an average sum upon which the compensation or superannuation allowance shall be granted, ... which sum so to be fixed shall not exceed the average amount of such emoluments for the three last preceding years.

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Act not to give an absolute right to compensation or superannuation allowances, or to prevent dismissal of persons without compensation.

XXX. PROVIDED always, and be it further enacted, that nothing in this Act contained shall extend or be construed to extend to give any person an absolute right to compensation for past services, or to any superannuation or retiring allowance under this Act, or to deprive the commissioners of his Majesty's Treasury, and the heads or principal officers of the respective departments, of their power and authority to dismiss any person from the public service without compensation.

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5 & 6 WILLIAM IV. A. D. 1835.

CHAPTER LII.

An Act to authorize the Court of Directors of the East India Company to suspend the Execution of the Provisions of the Act of the Third and Fourth William the Fourth, Chapter Eighty-five, so far as they relate to the Creation of the Government of Agra. [*31st August 1835.*

3 & 4 Will. 4. c. 85. s. 38.

WHEREAS by an Act of Parliament made and passed in the fourth year of the reign of his present Majesty, intituled "An Act for effecting an arrangement with the East India Company, and for the better government of his Majesty's Indian territories, till the thirtieth day of April one thousand eight hundred and fifty-four," it is among other things enacted, that the territories then subject to the government of the presidency of Fort William in Bengal shall be divided into two distinct presidencies, one of such presidencies, in which shall be included Fort William aforesaid, to be styled the presidency of Fort William in Bengal, and the other of such presidencies to be styled the presidency of Agra: And whereas much difficulty has arisen in carrying such enactment into effect, and the same would be attended with a large increase of charge: Be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that it shall and may be lawful for the court of directors of the East India Company, under the direction and control of the board of commissioners for the affairs of India, to suspend the execution of the provisions of the said in part recited Act so far as the same relate to the division of the said territories into two distinct presidencies, and to the measures consequent thereupon, for such time and from time to time as the said court of directors, under the direction and control of the said board of commissioners, shall think fit.

East India Company may suspend provisions of recited Act as to the division of the territories into two presidencies.

II. And be it further enacted, that for and during such time as the execution of such provisions aforesaid shall be suspended by the authority aforesaid it shall and may be lawful for the governor general of India in council to appoint from time to time any servant of the East India Company, who shall have been ten years in their service in India, to the office of lieutenant governor of the north-western provinces now under the presidency of Fort William in Bengal, and from time to time to declare and limit the extent of the territories so placed under such lieutenant governor, and the extent of the authority to be exercised by such lieutenant governor, as to the said governor general in council may seem fit.

Governor general, during such suspension, may appoint a lieutenant governor of the north-western provinces.

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7 WILLIAM IV & 1 VICTORIA. A. D. 1837.

Chapter XLVII.

An Act to repeal the Prohibition of the Payment of the Salaries and Allowances of the East India Company's Officers during their Absence from their respective Stations in India. [*12th July 1837.*]

Whereas under and by virtue of an Act passed in the thirty-third year of the reign of his Majesty King George the Third, intituled "An Act for continuing in the East India company for a further term the possession of the British territories in India, together with their exclusive trade under certain limitations, for establishing further regulations for the government of the said territories, and the better administration of justice within the same, for appropriating to certain uses the revenues and profits of the said company, and for making provisions for the good order and government of the towns of Calcutta, Madras, and Bombay," and of another Act passed in the third and fourth years of the reign of his late Majesty King William the Fourth, intituled "An Act for effecting an arrangement with the East India company, and for the better government of his Majesty's Indian territories, till the thirtieth day of April one thousand eight hundred and fifty-four," it is enacted, that "if any governor or other officer whatever in the service of the said company shall leave the presidency to which he shall belong, other than in the known actual service of the said company, the salary and allowances appertaining to his office shall not be paid or payable during his absence to any agent or other person for his use; and in the event of his not returning, or of his coming to Europe, his salary and allowances shall be deemed to have ceased on the day of his leaving the said territories or the presidency to which he may have belonged": And whereas it is further

33 Geo. 3. c. 52.

3 & 4 Will 4. c. 85.

provided in the said last-mentioned Act, that it shall be lawful for the said company to make such payment as is now by law permitted to be made to the representatives of their officers or servants, who, having left their stations intending to return thereto, shall die during their absence; and it is expedient that such provision of the law should be altered in manner herein-after mentioned: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that so much and such part or parts of the said two Acts passed respectively in the thirty-third year of the reign of his Majesty King George the Third and in the third and fourth years of the reign of his said late Majesty King William the Fourth, and of any other Act or provision of the law, as enacts that if any governor or other officer whatever in the service of the said company shall leave the presidency to which he shall belong, other than in the known actual service of the said company, the salary and allowances appertaining to his office shall not be paid or payable during his absence to any agent or other person for his use, shall not extend to the case of any officer or servant of the company under the rank of governor or member of council who shall quit the presidency to which he shall belong in consequence of sickness, under such rules as may from time to time be established by the governor general in India in council, or by the governor in council of such presidency, as the case may be, and who shall proceed to any place within the limits of the East India company's charter, or to the Cape of Good Hope, or to the Mauritius, or to the island of St. Helena, nor to the case of any officer or servant of the said company, under such rank as aforesaid, who, with the permission of the government of the presidency to which he shall belong, shall quit such presidency in order to proceed to another presidency for the purpose of embarking thence for Europe, until the departure of such officer or servant from such last-mentioned presidency with a view to return to Europe, so as that the port of such departure for Europe shall not be more distant from the place which he shall have quitted in his own presidency than any port of embarkation within such presidency.

So much of the recited Acts, &c. as prohibits the payment of salaries to officers in the service of the East India company during their absence shall not extend to cases of absence for sickness under rules established by governor general in council, &c.

nor to cases of officers quitting one presidency for another, in order to embark for Europe.

II. Provided always, and be it enacted, that no such rule so to be established as aforesaid shall have any force or validity until the same shall have been approved by the court of directors of the said company, subject to the control of the commissioners for the affairs of India, in like manner as is provided by the said Act of the third and fourth years of the reign of his late Majesty King William the Fourth.

No such rule valid till approved by court of directors, subject to the control of commissioners for affairs of India.

III. And be it further enacted, that it shall be lawful for the said court of directors, subject to such control as aforesaid, to direct the refunding by any

Court of directors, subject to afore-

officer or servant of the said company, or by the representatives of any such officer or servant, of the whole or any part of the salary or allowance which he or they may have received under or by virtue of any such rule so to be established as aforesaid, if it shall appear to the said court, subject to such control as aforesaid, that the permission to such officer or servant to quit the presidency to which he shall belong hath been improperly granted or obtained; and such sum as the said court, subject to such control as aforesaid, shall direct such officer or servant or the representatives of such officer or servant to refund, shall be a debt due to the said company, and shall be recoverable by them in any court in like manner as any debt may now or hereafter shall be recovered by them.

said control, may direct the refunding of any part of the allowance paid under any such rule.

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3 & 4 VICTORIA. A. D. 1840.

Chapter LVI.

An Act further to regulate the Trade of Ships built and trading within the Limits of the East India Company's Charter. [*7th August 1840.*]

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VI. And whereas doubts have been entertained whether the provisions and remedies enacted and contained in an Act passed in the session held in the third and fourth years of the reign of his late Majesty King William the Fourth, intituled "An Act for the registering of British vessels," in cases of the wilful detention and refusal to deliver up the certificate of the registry of any ship or vessel to the proper officer or other persons authorized and entitled in that behalf, as in the said last-mentioned Act is specified extend to and are in force in the territories under the government of the East India Company; and it is expedient that such doubts should be removed: Be it therefore declared and enacted, that the said several provisions and remedies in the said last-mentioned Act contained touching the wilful detention of such certificate of registry, or the absconding of any person in possession of the same, shall be deemed and taken to extend to and shall extend to and be in force in the said territories under the government of the East India Company. [Repealed, Stat. Law Rev. Act, 1871 (No. 2).]

3 & 4 Will. 4. c. 55.

Provisions of said Act as to detention of certificate of registry, &c. shall extend to territories of East India Company.

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VIII. And be it enacted, that in all cases in which by the said last-mentioned Act [a] it is made lawful for any governor, lieutenant-governor, or commander in chief of any of her Majesty's colonies, plantations, islands, or territories, and they are thereby authorized and required, if any suit, information, libel, or other

Stay of proceedings as to ships' registers in certain cases.

[a The Act 3 & 4 Will. 4. c. 55., which is repealed, 8 & 9 Vict. c. 84. s. 2., contained the following provision:—

Sect. 44. And be it further enacted, that it shall and may be lawful for any governor, lieutenant-governor, or commander in chief of any of his Majesty's colonies, plantations, islands, or territories, and they are hereby respectively authorized and required, if any suit, information, libel, or other prosecution or proceeding of any nature or kind whatever shall have been commenced or shall hereafter be commenced in any court whatever in any of the said colonies, plantations, islands,

prosecution or proceeding, of any nature or kind whatever, shall have been commenced or shall hereafter be commenced in any court whatever in any of the said colonies, plantations, islands, or territories respectively, touching the force and effect of any register granted to any ship or vessel, upon a representation made to any such governor, lieutenant governor, or commander in chief, to cause all proceedings thereon to be stayed, as in the said last-mentioned Act is provided, it shall be lawful, in the territories under the government of the East India Company, for the governor general of India in council, or the governor of the said presidency of Fort William in Bengal, or for the respective governors in council or governors of the said presidencies of Fort Saint George and Bombay, or the governor of Prince of Wales Island, Singapore, and Malacca, according to circumstances, and as the case may be, and they are respectively authorized and required, if any such suit, information, libel, or other prosecution or proceeding whatever shall have been commenced or shall hereafter be commenced in any of her Majesty's courts whatever, in or in any place subordinate to the said several presidencies, or the government of Prince of Wales Island, Singapore, and Malacca respectively, touching the force and effect of any register granted to any ship or vessel, upon a representation made to any such governor general of India in council, or governor of the said presidency of Fort William in Bengal, or governors in council, or governors of the said presidencies of Fort Saint George and Bombay respectively, or such governor of Prince of Wales Island, Singapore, and Malacca, according to circumstances, and as the case may be, to cause all proceedings thereon to be stayed, if he shall see just cause so to do, until her Majesty's pleasure shall be known and certified to him by her Majesty, by or with the advice of her Majesty's privy council; and such governor general of India in council, or governor of the said presidency of Fort William in Bengal, or governor in council or governor of the said presidencies of Fort Saint George and Bombay respectively, or such governor of Prince of Wales Island, Singapore, and Malacca respectively, is hereby required to transmit to the court of directors of the East India Company, to be by them forthwith forwarded to the president of the board of commissioners for the affairs of India, to be laid before her Majesty in council, an authenticated copy of the proceedings in every such case, together with his

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or territories respectively, touching the force and effect of any register granted to any ship or vessel, upon a representation made to any such governor, lieutenant governor, or commander in chief, to cause all proceedings thereon to be stayed, if he shall see just cause so to do, until his Majesty's pleasure shall be known and certified to him by his Majesty, by and with the advice of his Majesty's privy council; and such governor, lieutenant governor, or commander in chief is hereby required to transmit to one of his Majesty's principal secretaries of state, to be laid before his Majesty in council, an authenticated copy of the proceedings in every such case, together with his reasons for causing the same to be stayed, and such documents (properly verified) as he may judge necessary for the information of his Majesty.]

reasons for causing the same to be stayed, and such documents properly verified as he may judge necessary for the information of her Majesty.

IX. And be it enacted, that the term "limits of the India Company' charter" shall for all purposes of this Act be construed to mean all places and seas eastward of the Cape of Good Hope to the Straits of Magellan.

Meaning of "limits of the India Company's charter."

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5 & 6 VICTORIA. A. D. 1842.

Chapter XLV.

An Act to amend the Law of Copyright.

[*1st July 1842.*]

Whereas it is expedient to amend the law relating to copyright, and to afford greater encouragement to the production of literary works of lasting benefit to the world: . . . . . .

II. And be it enacted, that in the construction of this Act the word "book" shall be construed to mean and include every volume, part or division of a volume, pamphlet, sheet of letter-press, sheet of music, map, chart, or plan separately published; that the words "dramatic piece" shall be construed to mean and include every tragedy, comedy, play, opera, farce, or other scenic, musical, or dramatic entertainment; that the word "copyright" shall be construed to mean the sole and exclusive liberty of printing or otherwise multiplying copies of any subject to which the said word is herein applied; that the words "personal representative" shall be construed to mean and include every executor, administrator, and next of kin entitled to administration; that the word "assigns" shall be construed to mean and include every person in whom the interest of an author in copyright shall be vested, whether derived from such author before or after the publication of any book, and whether acquired by sale, gift, bequest, or by operation of law, or otherwise; that the words "British dominions" shall be construed to mean and include all parts of the United Kingdom of Great Britain and Ireland, the Islands of Jersey and Guernsey, all parts of the East and West Indies, and all the colonies, settlements, and possessions of the crown which now are or hereafter may be acquired; and that whenever in this Act, in describing any person, matter, or thing, the word importing the singular number or the masculine gender only is used, the same shall be understood to include and to be applied to several persons as well as one person, and females as well as males, and several matters or things as well as one matter or thing, respectively, unless there shall be something in the subject or context repugnant to such construction.

Interpretation of Act. "Book." "Dramatic piece." "Copyright." "Persona representative." "Assigns." "British dominions."

Endurance of term of copyright and property in any book hereafter to be published in the lifetime of the author;

or after the author's death.

III. And be it enacted, that the copyright in every book which shall after the passing of this Act be published in the lifetime of its author shall endure for the natural life of such author, and for the further term of seven years, commencing at the time of his death, and shall be the property of such author and his assigns: Provided always, that if the said term of seven years shall expire before the end of forty-two years from the first publication of such book, the copyright shall in that case endure for such period of forty-two years; and that the copyright in every book which shall be published after the death of its author shall endure for the term of forty-two years from the first publication thereof, and shall be the property of the proprietor of the author's manuscript from which such book shall be first published, and his assigns.

In cases of subsisting copyright, the term to be extended except when it shall belong to an assignee for other consideration than natural love and affection; in which case it shall cease at the expiration of the present term, unless its extension be agreed to between the proprietor and the author.

IV. And whereas it is just to extend the benefits of this Act to authors of books published before the passing thereof, and in which copyright still subsists: Be it enacted, that the copyright which at the time of passing this Act shall subsist in any book theretofore published (except as herein-after mentioned) shall be extended and endure for the full term provided by this Act in cases of books thereafter published, and shall be the property of the person who at the time of passing of this Act shall be the proprietor of such copyright: Provided always, that in all cases in which such copyright shall belong in whole or in part to a publisher or other person who shall have acquired it for other consideration than that of natural love and affection, such copyright shall not be extended by this Act, but shall endure for the term which shall subsist therein at the time of passing of this Act, and no longer, unless the author of such book, if he shall be living, or the personal representative of such author, if he shall be dead, and the proprietor of such copyright, shall, before the expiration of such term, consent and agree to accept the benefits of this Act in respect of such book, and shall cause a minute of such consent in the form in that behalf given in the schedule to this Act annexed to be entered in the book of registry herein-after directed to be kept, in which case such copyright shall endure for the full term by this Act provided in cases of books to be published after the passing of this Act, and shall be the property of such person or persons as in such minute shall be expressed.

Judicial committee of the privy council may license the republication of books which the proprietor refuses to republish

V. And whereas it is expedient to provide against the suppression of books of importance to the public: Be it enacted, that it shall be lawful for the judicial committee of her Majesty's privy council, on complaint made to them that the proprietor of the copyright in any book after the death of its author has refused to republish or to allow the republication of the same, and that by reason of such refusal such book may be withheld from the public, to grant a licence to such complainant to publish such book, in such manner and subject

to such conditions as they may think fit; and that it shall be lawful for such complainant to publish such book according to such licence.

after death of the author.

VI. And be it enacted, that a printed copy of the whole of every book which shall be published after the passing of this Act, together with all maps, prints, or other engravings belonging thereto, finished and coloured in the same manner as the best copies of the same shall be published, and also of any second or subsequent edition which shall be so published with any additions or alterations, whether the same shall be in letter press, or in the maps, prints, or other engravings belonging thereto, and whether the first edition of such book shall have been published before or after the passing of this Act, and also of any second or subsequent edition of every book of which the first or some preceding edition shall not have been delivered for the use of the British Museum, bound, sewed, or stitched together, and upon the best paper on which the same shall be printed, shall within one calendar month after the day on which any such book shall first be sold, published, or offered for sale within the bills of mortality, or within three calendar months, if the same shall first be sold, published, or offered for sale in any other part of the United Kingdom, or within twelve calendar months after the same shall first be sold, published, or offered for sale in any other part of the British dominions, be delivered on behalf of the publisher thereof, at the British Museum.

Copies of books published after the passing of this Act, and of all subsequent editions, to be delivered within certain times at the British Museum.

VII. And be it enacted, that every copy of any book which under the provisions of this Act ought to be delivered as aforesaid shall be delivered at the British Museum between the hours of ten in the forenoon and four in the afternoon on any day except Sunday, Ash Wednesday, Good Friday, and Christmas Day, to one of the officers of the said museum, or to some person authorized by the trustees of the said museum to receive the same; and such officer or other person receiving such copy is hereby required to give a receipt in writing for the same; and such delivery shall to all intents and purposes be deemed to be good and sufficient delivery under the provisions of this Act.

Mode of delivering copies at the British Museum.

VIII. And be it enacted, that a copy of the whole of every book, and of any second or subsequent edition of every book containing additions and alterations, together with all maps and prints belonging thereto, which after the passing of this Act shall be published, shall, on demand thereof in writing, left at the place of abode of the publisher thereof at any time within twelve months next after the publication thereof, under the hand of the officer of the Company of Stationers who shall from time to time be appointed by the said company for the purposes of this Act, or under the hand of any other person thereto authorized by the persons or bodies politic and corporate, proprietors and managers of the libraries following, (videlicet,) the Bodleian library at Oxford, the public library at Cambridge, the library of the Faculty of Advocates

A copy of every book to be delivered within a month after demand to the officer of the Stationers Company, for the following libraries: the Bodleian at Oxford, the public library at Cambridge, the library of the Faculty

of Advocates at Edinburgh, and that of Trinity College, Dublin.

at Edinburgh, the library of the College of the Holy and Undivided Trinity of Queen Elizabeth near Dublin, be delivered, upon the paper of which the largest number of copies of such book or addition shall be printed for sale, in the like condition as the copies prepared for sale by the publisher thereof respectively, within one month after demand made thereof in writing as aforesaid, to the said officer of the said Company of Stationers for the time being, which copies the said officer shall and he is hereby required to receive at the hall of the said company, for the use of the library for which such demand shall be made within such twelve months as aforesaid; and the said officer is hereby required to give a receipt in writing for the same, and within one month after any such book shall be so delivered to him as aforesaid to deliver the same for the use of such library.

Publishers may deliver the copies to the libraries, instead of at the Stationers Company.

IX. Provided also, and be it enacted, that if any publisher shall be desirous of delivering the copy of such book as shall be demanded on behalf of any of the said libraries at such library, it shall be lawful for him to deliver the same at such library, free of expense, to such librarian or other person authorized to receive the same (who is hereby required in such case to receive and give a receipt in writing for the same); and such delivery shall to all intents and purposes of this Act be held as equivalent to a delivery to the said officer of the Stationers Company.

Penalty for default in delivering copies for the use of the libraries.

X. And be it enacted, that if any publisher of any such book, or of any second or subsequent edition of any such book, shall neglect to deliver the same pursuant to this Act, he shall for every such default forfeit, besides the value of such copy of such book or edition which he ought to have delivered, a sum not exceeding five pounds, to be recovered by the librarian or other officer (properly authorized) of the library for the use whereof such copy should have been delivered, in a summary way, on conviction before two justices of the peace for the county or place where the publisher making default shall reside, or by action of debt or other proceeding of the like nature, at the suit of such librarian or other officer, in any court of record in the United Kingdom; in which action, if the plaintiff shall obtain a verdict, he shall recover his costs reasonably incurred, to be taxed as between attorney and client.

Book of registry to be kept at Stationers Hall.

XI. And be it enacted, that a book of registry, wherein may be registered, as herein-after enacted, the proprietorship in the copyright of books, and assignments thereof, and in dramatic and musical pieces, whether in manuscript or otherwise, and licences affecting such copyright, shall be kept at the hall of the Stationers Company, by the officer appointed by the said company for the purposes of this Act, and shall at all convenient times be open to the inspection of any person, on payment of one shilling for every entry which shall be

searched for or inspected in the said book; and that such officer shall, whenever thereunto reasonably required, give a copy of any entry in such book, certified under his hand, and impressed with the stamp of the said company, to be provided by them for that purpose, and which they are hereby required to provide, to any person requiring the same, on payment to him of the sum of five shillings; and such copies so certified and impressed shall be received in evidence in all courts, and in all summary proceedings, and shall be primâ facie proof of the proprietorship or assignment of copyright or licence as therein expressed, but subject to be rebutted by other evidence, and in the case of dramatic or musical pieces shall be primâ facie proof of the right of representation or performance, subject to be rebutted as aforesaid.

Copies of entries to be given when required, and to be received in evidence.

XII. And be it enacted, that if any person shall wilfully make or cause to be made any false entry in the registry book of the Stationers Company, or shall wilfully produce or cause to be tendered in evidence any paper falsely purporting to be a copy of any entry in the said book, he shall be guilty of an indictable misdemeanor, and shall be punished accordingly.

Making a false entry in the book of registry a misdemeanor.

XIII. And be it enacted, that after the passing of this Act it shall be lawful for the proprietor of copyright in any book heretofore published, or in any book hereafter to be published, to make entry in the registry book of the Stationers Company of the title of such book, the time of the first publication thereof, the name and place of abode of the publisher thereof, and the name and place of abode of the proprietor of the copyright of the said book, or of any portion of such copyright, in the form in that behalf given in the schedule to this Act annexed, upon payment of the sum of five shillings to the officer of the said company; and that it shall be lawful for every such registered proprietor to assign his interest, or any portion of his interest therein, by making entry in the said book of registry of such assignment, and of the name and place of abode of the assignee thereof, in the form given in that behalf in the said schedule, on payment of the like sum; and such assignment so entered shall be effectual in law to all intents and purposes whatsoever, without being subject to any stamp or duty, and shall be of the same force and effect as if such assignment had been made by deed.

Entries of copyright may be made in the book of registry.

XIV. And be it enacted, that if any person shall deem himself aggrieved by any entry made under colour of this Act in the said book of registry, it shall be lawful for such person to apply by motion to the Court of Queen's Bench, Court of Common Pleas, or Court of Exchequer, in term time, or to apply by summons to any judge of either of such courts in vacation, for an order that such entry may be expunged or varied; and that upon any such application by motion or summons to either of the said courts, or to a judge as aforesaid, such court or judge shall make such order for expunging, varying, or confirm-

Persons aggrieved by any entry in the book of registry may apply to a court of law in term, or judge in vacation, who may order such entry to be

varied or expunged.

ing such entry, either with or without costs, as to such court or judge shall seem just; and the officer appointed by the Stationers Company for the purposes of this Act shall, on the production to him of any such order for expunging or varying any such entry, expunge or vary the same according to the requisitions of such order.

Remedy for the piracy of books by action on the case.

XV. And be it enacted, that if any person shall, in any part of the British dominions, after the passing of this Act, print or cause to be printed, either for sale or exportation, any book in which there shall be subsisting copyright, without the consent in writing of the proprietor thereof, or shall import for sale or hire any such book so having been unlawfully printed from parts beyond the sea, or, knowing such book to have been so unlawfully printed or imported, shall sell, publish, or expose to sale or hire, or cause to be sold, published, or exposed to sale or hire, or shall have in his possession, for sale or hire, any such book so unlawfully printed or imported, without such consent as aforesaid, such offender shall be liable to a special action on the case at the suit of the proprietor of such copyright, to be brought in any court of record in that part of the British dominions in which the offence shall be committed: Provided always, that in Scotland such offender shall be liable to an action in the court of session in Scotland, which shall and may be brought and prosecuted in the same manner in which any other action of damages to the like amount may be brought and prosecuted there.

In actions for piracy the defendant to give notice of the objections to the plaintiff's title on which he means to rely.

XVI. And be it enacted, that after the passing of this Act, in any action brought within the British dominions against any person for printing any such book for sale, hire, or exportation, or for importing, selling, publishing, or exposing to sale or hire, or causing to be imported, sold, published, or exposed to sale or hire, any such book, the defendant, on pleading thereto, shall give to the plaintiff a notice in writing of any objections on which he means to rely on the trial of such action; and if the nature of his defence be, that the plaintiff in such action was not the author or first publisher of the book in which he shall by such action claim copyright, or is not the proprietor of the copyright therein, or that some other person than the plaintiff was the author or first publisher of such book, or is the proprietor of the copyright therein, then the defendant shall specify in such notice the name of the person who he alleges to have been the author or first publisher of such book, or the proprietor of the copyright therein, together with the title of such book, and the time when and the place where such book was first published, otherwise the defendant in such action shall not at the trial or hearing of such action be allowed to give any evidence that the plaintiff in such action was not the author or first publisher of the book in which he claims such copyright as aforesaid, or that he was not the proprietor of the copyright therein; and at such trial or

hearing no other objection shall be allowed to be made on behalf of such defendant than the objections stated in such notice, or that any other person was the author or first publisher of such book, or the proprietor of the copyright therein, than the person specified in such notice, or give in evidence in support of his defence any other book than one substantially corresponding in title, time, and place of publication, with the title, time, and place specified in such notice.

No person, except the proprietor, &c. shall import into the British dominions for sale or hire any book first composed, &c. within the United Kingdom, and re-printed elsewhere, under penalty of forfeiture thereof, and also of 10*l.* and double the value. Books may be seized by officers of customs or excise.

XVII. And be it enacted, that after the passing of this Act it shall not be lawful for any person, not being the proprietor of the copyright, or some person authorized by him, to import into any part of the United Kingdom, or into any other part of the British dominions, for sale or hire, any printed book first composed or written or printed and published in any part of the said United Kingdom, wherein there shall be copyright, and re-printed in any country or place whatsoever out of the British dominions; and if any person, not being such proprietor or person authorized as aforesaid, shall import or bring, or cause to be imported or brought, for sale or hire, any such printed book, into any part of the British dominions, contrary to the true intent and meaning of this Act, or shall knowingly sell, publish, or expose to sale or let to hire, or have in his possession for sale or hire, any such book, then every such book shall be forfeited, and shall be seized by any officer of customs or excise, and the same shall be destroyed by such officer; and every person so offending, being duly convicted thereof before two justices of the peace for the county or place in which such book shall be found, shall also for every such offence forfeit the sum of ten pounds, and double the value of every copy of such book which he shall so import or cause to be imported into any part of the British dominions, or shall knowingly sell, publish, or expose to sale or let to hire, or shall cause to be sold, published, or exposed to sale or let to hire, or shall have in his possession for sale or hire, contrary to the true intent and meaning of this Act, five pounds to the use of such officer of customs or excise, and the remainder of the penalty to the use of the proprietor of the copyright in such book.

Copyright in encyclopædias, periodicals, and works published in a series, reviews, or magazines.

XVIII. And be it enacted, that when any publisher or other person shall, before or at the time of the passing of this Act, have projected, conducted, and carried on, or shall hereafter project, conduct, and carry on, or be the proprietor of any encyclopædia, review, magazine, periodical work, or work published in a series of books or parts, or any book whatsoever, and shall have employed or shall employ any persons to compose the same, or any volumes, parts, essays, articles, or portions thereof, for publication in or as part of the same, and such work, volumes, parts, essays, articles, or portions shall have been or shall hereafter be composed under such employment, on the terms that the copyright

therein shall belong to such proprietor, projector, publisher, or conductor, and paid for by such proprietor, projector, publisher, or conductor, the copyright in every such encyclopædia, review, magazine, periodical work, and work published in a series of books or parts, and in every volume, part, essay, article, and portion so composed and paid for, shall be the property of such proprietor, projector, publisher, or other conductor, who shall enjoy the same rights as if he were the actual author thereof, and shall have such term of copyright therein as is given to the authors of books by this Act; except only that in the case of essays, articles, or portions forming part of and first published in reviews, magazines, or other periodical works of a like nature, after the term of twenty-eight years from the first publication thereof respectively the right of publishing the same in a separate form shall revert to the author for the remainder of the term given by this Act: Provided always, that during the term of twenty-eight years the said proprietor, projector, publisher, or conductor shall not publish any such essay, article, or portion separately or singly without the consent previously obtained of the author thereof, or his assigns: Provided also, that nothing herein contained shall alter or affect the right of any person who shall have been or who shall be so employed as aforesaid to publish any such his composition in a separate form, who by any contract, express or implied, may have reserved or may hereafter reserve to himself such right; but every author reserving, retaining, or having such right shall be entitled to the copyright in such composition when published in a separate form, according to this Act, without prejudice to the right of such proprietor, projector, publisher, or conductor as aforesaid.

Proviso for authors who have reserved the right of publishing their articles in a separate form.

Proprietors of encyclopædias, periodicals, and works published in a series, may enter at once at Stationers Hall, and thereon have the benefit of the registration of the whole.

XIX. And be it enacted, that the proprietor of the copyright in any encyclopædia, review, magazine, periodical work, or other work published in a series of books or parts, shall be entitled to all the benefits of the registration at Stationers Hall under this Act, on entering in the said book of registry the title of such encyclopædia, review, periodical work, or other work published in a series of books or parts, the time of the first publication of the first volume, number, or part thereof, or of the first number or volume first published after the passing of this Act in any such work which shall have been published heretofore, and the name and place of abode of the proprietor thereof, and of the publisher thereof, when such publisher shall not also be the proprietor thereof.

3 & 4 Will. 4. c. 15.

XX. And whereas an Act was passed in the third year of the reign of his late Majesty, to amend the law relating to dramatic literary property, and it is expedient to extend the term of the sole liberty of representing dramatic pieces given by that Act to the full time by this Act provided for the continuance of copyright: And whereas it is expedient to extend to musical compositions the benefits of that Act, and also of this Act: Be it therefore

Provisions of

enacted, that the provisions of the said Act of his late Majesty, and of this Act, shall apply to musical compositions; and that the sole liberty of representing or performing, or causing or permitting to be represented or performed, any dramatic piece or musical composition, shall endure and be the property of the author thereof, and his assigns, for the term in this Act provided for the duration of copyright in books; and the provisions herein-before enacted in respect of the property of such copyright, and of registering the same, shall apply to the liberty of representing or performing any dramatic piece or musical composition, as if the same were herein expressly re-enacted and applied thereto, save and except that the first public representation or performance of any dramatic piece or musical composition shall be deemed equivalent, in the construction of this Act, to the first publication of any book: Provided always, that in case of any dramatic piece or musical composition in manuscript, it shall be sufficient for the person having the sole liberty of representing or performing or causing to be represented or performed the same, to register only the title thereof, the name and place of abode of the author or composer thereof, the name and place of abode of the proprietor thereof, and the time and place of its first representation or performance.

recited Act and this Act shall apply to musical compositions; and the sole liberty of representing dramatic pieces and performing musical compositions shall remain in the author during the term of copyright provided by this Act.

XXI. And be it enacted, that the person who shall at any time have the sole liberty of representing such dramatic piece or musical composition shall have and enjoy the remedies given and provided in the said Act of the third and fourth years of the reign of his late Majesty King William the Fourth, passed to amend the laws relating to dramatic literary property, during the whole of his interest therein, as fully as if the same were re-enacted in this Act.

Proprietors of right of dramatic representations shall have all the remedies given by 3 & 4 Will. 4. c. 15.

XXII. And be it enacted, that no assignment of the copyright of any book consisting of or containing a dramatic piece or musical composition shall be holden to convey to the assignee the right of representing or performing such dramatic piece or musical composition, unless an entry in the said registry book shall be made of such assignment, wherein shall be expressed the intention of the parties that such right should pass by such assignment.

Assignment of copyright of a dramatic piece not to convey the right of representation.

XXIII. And be it enacted, that all copies of any book wherein there shall be copyright, and of which entry shall have been made in the said registry book, and which shall have been unlawfully printed or imported without the consent of the registered proprietor of such copyright in writing under his hand first obtained, shall be deemed to be the property of the proprietor of such copyright, and who shall be registered as such; and such registered proprietor shall, after demand thereof in writing, be entitled to sue for and recover the same, or damages for the detention thereof, in an action of detinue, from any party who shall detain the same, or to sue for and recover damages for the conversion thereof in an action of trover.

Books printed shall become the property of the proprietor of the copyright, and may be recovered by action.

No proprietor of copyright commencing after this Act shall sue or proceed for any infringement before making entry in the book of registry.

XXIV. And be it enacted, that no proprietor of copyright in any book which shall be first published after the passing of this Act shall maintain any action or suit, at law or in equity, or any summary proceeding, in respect of any infringement of such copyright, unless he shall, before commencing such action, suit, or proceeding, have caused an entry to be made, in the book of registry of the Stationers Company, of such book, pursuant to this Act: Provided always, that the omission to make such entry shall not affect the copyright in any book, but only the right to sue or proceed in respect of the infringement thereof as aforesaid: Provided also, that nothing herein contained shall prejudice the remedies which the proprietor of the sole liberty of representing any dramatic piece shall have by virtue of the Act passed in the third year of the reign of his late Majesty King William the Fourth, to amend the laws relating to dramatic literary property, or of this Act, although no entry shall be made in the book of registry aforesaid.

Proviso for dramatic pieces.

Copyright shall be personal property.

XXV. And be it enacted, that all copyright shall be deemed personal property, and shall be transmissible by bequest, or, in case of intestacy, shall be subject to the same law of distribution as other personal property, and in Scotland shall be deemed to be personal and moveable estate.

General issue.

XXVI. And be it enacted, that if any action or suit shall be commenced or brought against any person or persons whomsoever for doing or causing to be done anything in pursuance of this Act, the defendant or defendants in such action may plead the general issue, and give the special matter in evidence; and if upon such action a verdict shall be given for the defendant, or the plaintiff shall become nonsuited, or discontinue his action, then the defendant shall have and recover his full costs, for which he shall have the same remedy as a defendant in any case by law hath; and that all actions, suits, bills, indictments, or informations for any offence that shall be committed against this Act, shall be brought, sued, and commenced within twelve calendar months next after such offence committed, or else the same shall be void and of none effect; provided that such limitation of time shall not extend or be construed to extend to any actions, suits, or other proceedings, which under the authority of this Act shall or may be brought, sued, or commenced for or in respect of any copies or books to be delivered for the use of the British Museum, or of any one of the four libraries herein-before mentioned.

Costs

Limitation of actions;

except actions, &c. in respect of the delivery of books.

Saving the rights of the universities, and the colleges of Eton, Westminster, and Winchester

XXVII. Provided always, and be it enacted, that nothing in this Act contained shall affect or alter the rights of the two universities of Oxford and Cambridge, the colleges or houses of learning within the same, the four universities in Scotland, the college of the Holy and Undivided Trinity of Queen Elizabeth near Dublin, and the several colleges of Eton, Westminster, and Winchester, in any copyrights heretofore and now vested or hereafter to

be vested in such universities and colleges respectively, anything to the contrary herein contained notwithstanding.

XXVIII. PROVIDED also, and be it enacted, that nothing in this Act contained shall affect, alter, or vary any right subsisting at the time of passing of this Act, except as herein expressly enacted; and all contracts, agreements, and obligations made and entered into before the passing of this Act, and all remedies relating thereto, shall remain in full force, anything herein contained to the contrary notwithstanding. Saving as to subsisting rights, contracts, and engagements.

XXIX. AND be it enacted, that this Act shall extend to the United Kingdom of Great Britain and Ireland, and to every part of the British dominions. Extent of Act.

* * * * * * * * *

SCHEDULE to which the preceding Act refers.

No. 1.

FORM of Minute of Consent to be entered at Stationers Hall.

We, the undersigned, A.B. of the author of a certain book, intituled Y.Z. [or the personal representative of the author, as the case may be], and C.D. of do hereby certify, that we have consented and agreed to accept the benefits of the Act passed in the fifth year of the reign of Her Majesty Queen Victoria, cap. , for the extension of the term of copyright therein provided by the said Act, and hereby declare that such extended term of copyright therein is the property of the said A.B. or C.D.

Dated this day of 18 .

Witness (Signed) A.B.

C.D.

To the Registering Officer appointed by the Stationers Company.

No. 2.

FORM of requiring Entry of Proprietorship.

I A.B. of do hereby certify, that I am the proprietor of the copyright of a book, intituled Y.Z., and I hereby require you to make entry in the register book of the Stationers Company of my proprietorship of such copyright, according to the particulars underwritten.

No proprietor of copyright commencing after this Act shall sue or proceed for any infringement before making entry in the book of registry.

XXIV. And be it enacted, that no proprietor of copyright in any book which shall be first published after the passing of this Act shall maintain any action or suit, at law or in equity, or any summary proceeding, in respect of any infringement of such copyright, unless he shall, before commencing such action, suit, or proceeding, have caused an entry to be made, in the book of registry of the Stationers Company, of such book, pursuant to this Act: Provided always, that the omission to make such entry shall not affect the copyright in any book, but only the right to sue or proceed in respect of the infringement thereof as aforesaid: Provided also, that nothing herein contained shall prejudice the remedies which the proprietor of the sole liberty of representing any dramatic piece shall have by virtue of the Act passed in the third year of the reign of his late Majesty King William the Fourth, to amend the laws relating to dramatic literary property, or of this Act, although no entry shall be made in the book of registry aforesaid.

Proviso for dramatic pieces.

Copyright shall be personal property.

XXV. And be it enacted, that all copyright shall be deemed personal property, and shall be transmissible by bequest, or, in case of intestacy, shall be subject to the same law of distribution as other personal property, and in Scotland shall be deemed to be personal and moveable estate.

General issue.

XXVI. And be it enacted, that if any action or suit shall be commenced or brought against any person or persons whomsoever for doing or causing to be done anything in pursuance of this Act, the defendant or defendants in such action may plead the general issue, and give the special matter in evidence; and if upon such action a verdict shall be given for the defendant, or the plaintiff shall become nonsuited, or discontinue his action, then the defendant shall have and recover his full costs, for which he shall have the same remedy as a defendant in any case by law hath; and that all actions, suits, bills, indictments, or informations for any offence that shall be committed against this Act, shall be brought, sued, and commenced within twelve calendar months next after such offence committed, or else the same shall be void and of none effect; provided that such limitation of time shall not extend or be construed to extend to any actions, suits, or other proceedings, which under the authority of this Act shall or may be brought, sued, or commenced for or in respect of any copies or books to be delivered for the use of the British Museum, or of any one of the four libraries herein-before mentioned.

Costs

Limitation of actions;

except actions, &c. in respect of the delivery of books.

Saving the rights of the universities, and the colleges of Eton, Westminster, and Winchester

XXVII. Provided always, and be it enacted, that nothing in this Act contained shall affect or alter the rights of the two universities of Oxford and Cambridge, the colleges or houses of learning within the same, the four universities in Scotland, the college of the Holy and Undivided Trinity of Queen Elizabeth near Dublin, and the several colleges of Eton, Westminster, and Winchester, in any copyrights heretofore and now vested or hereafter to

be vested in such universities and colleges respectively, anything to the contrary herein contained notwithstanding.

XXVIII. Provided also, and be it enacted, that nothing in this Act contained shall affect, alter, or vary any right subsisting at the time of passing of this Act, except as herein expressly enacted; and all contracts, agreements, and obligations made and entered into before the passing of this Act, and all remedies relating thereto, shall remain in full force, anything herein contained to the contrary notwithstanding. Saving as to subsisting rights, contracts, and engagements.

XXIX. And be it enacted, that this Act shall extend to the United Kingdom of Great Britain and Ireland, and to every part of the British dominions. Extent of Act.

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Schedule to which the preceding Act refers.

No. 1.

Form of Minute of Consent to be entered at Stationers Hall.

We, the undersigned, A.B. of the author of a certain book, intituled Y.Z. [or the personal representative of the author, as the case may be], and C.D. of do hereby certify, that we have consented and agreed to accept the benefits of the Act passed in the fifth year of the reign of Her Majesty Queen Victoria, cap. , for the extension of the term of copyright therein provided by the said Act, and hereby declare that such extended term of copyright therein is the property of the said A.B. or C.D.

Dated this day of 18 .

Witness . (Signed) A.B.

C.D.

To the Registering Officer appointed by the Stationers Company.

No. 2.

Form of requiring Entry of Proprietorship.

I A.B. of do hereby certify, that I am the proprietor of the copyright of a book, intituled Y.Z., and I hereby require you to make entry in the register book of the Stationers Company of my proprietorship of such copyright, according to the particulars underwritten.

Title of Book.	Name of Publisher, and Place of Publication.	Name and Place of Abode of the Proprietor of the Copyright.	Date of First Publication.
Y.Z.		A.B.	

Dated this day of 18 .

Witness, C.D. (Signed) A.B.

No. 3.

ORIGINAL Entry of Proprietorship of Copyright of a Book.

Time of making the Entry.	Title of Book.	Name of the Publisher, and Place of Publication.	Name and Place of Abode of the Proprietor of the Copyright.	Date of First Publication.
	Y.Z.	A.B.	C.D.	

No. 4.

FORM of Concurrence of the Party assigning in any Book previously registered.

I A.B. of being the assigner of the copyright of the book hereunder described, do hereby require you to make entry of the assignment of the copyright therein.

Title of Book.	Assigner of the Copyright.	Assignee of Copyright.
Y. Z.	A. B.	C. D.

Dated this day of 18 .

(Signed) A.B.

No. 5.

FORM of Entry of Assignment of Copyright in any Book previously registered.

Date of Entry.	Title of Book.	Assigner of the Copyright.	Assignee of Copyright.
	[Set out the title of the book, and refer to the page of the registry book in which the original entry of the copyright thereof is made.]	A. B.	C. D.

5 & 6 VICTORIA. A. D. 1842.

CHAPTER C.

An Act to consolidate and amend the Laws relating to the Copyright of Designs for ornamenting Articles of Manufacture. [*10th August 1842.*]

WHEREAS by the several Acts mentioned in the schedule (A.) to this Act annexed there was granted, in respect of the woven fabrics therein mentioned, the sole right to use any new and original pattern for printing the same during the period of three calendar months: And whereas by the Act mentioned in the schedule (B.) to this Act annexed there was granted, in respect of all articles except lace, and except the articles within the meaning of the Acts herein-before referred to, the sole right of using any new and original design, for certain purposes, during the respective periods therein mentioned; but forasmuch as the protection afforded by the said Acts in respect of the application of designs to certain articles of manufacture is insufficient, it is expedient to extend the same, but upon the conditions herein-after expressed: Now for that purpose, and for the purpose of consolidating the provisions of the said Acts, be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that this Act shall come into operation on the first day of September one thousand eight hundred and forty-two; and that thereupon all the said Acts mentioned in the said schedules (A.) and (B.) to this Act annexed shall be and they are hereby repealed. [Repealed, Stat. Law Rev. Act, 1874 (No. 2).]

Commencement of Act and repeal of former Acts.

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III. And with regard to any new and original design (except for sculpture and other things within the provisions of the several Acts mentioned in the schedule (C.) to this Act annexed), whether such design be applicable to the ornamenting of any article of manufacture, or of any substance, artificial or natural, or partly artificial and partly natural, and that whether such design be so applicable for the pattern, or for the shape or configuration, or for the ornament thereof, or for any two or more of such purposes, and by whatever means such design may be so applicable, whether by printing, or by painting, or by embroidery, or by weaving, or by sewing, or by modelling, or by casting, or by embossing, or by engraving, or by staining, or by any other means whatsoever, manual, mechanical, or chemical, separate or combined: Be it enacted, that the proprietor of every such design, not previously published either within the United Kingdom of Great Britain and Ireland or elsewhere, shall have the sole right to apply the same to any articles of manufacture, or to any such substances as aforesaid, ... for the respective terms herein-after mentioned, such respective terms to be computed from the time of such design being registered according to this Act; (that is to say,)

Grant of copyright in new and original designs.

In respect of the application of any such design to ornamenting any article of manufacture contained in the first, second, third, fourth, fifth, sixth, eighth, or eleventh of the classes following, for the term of three years:

In respect of the application of any such design to ornamenting any article of manufacture contained in the seventh, ninth, or tenth of the classes following, for the term of nine calendar months:

In respect of the application of any such design to ornamenting any article of manufacture or substance contained in the twelfth or thirteenth of the classes following, for the term of twelve calendar months:

Class 1.—Articles of manufacture composed wholly or chiefly of any metal or mixed metals:

Class 2.—Articles of manufacture composed wholly or chiefly of wood:

Class 3.—Articles of manufacture composed wholly or chiefly of glass:

Class 4.—Articles of manufacture composed wholly or chiefly of earthenware:

Class 5.—Paper hangings:

Class 6.—Carpets:

Class 7.—Shawls, if the design be applied solely by printing, or by any other process by which colours are or may hereafter be produced upon tissue or textile fabrics:

Class 8.—Shawls not comprised in class 7:

Class 9.—Yarn, thread, or warp, if the design be applied by printing, or by any other process by which colours are or may hereafter be produced:

Class 10.—Woven fabrics composed of linen, cotton, wool, silk, or hair, or of any two or more of such materials, if the design be applied by printing, or by any other process by which colours are or may hereafter be produced upon tissue or textile fabrics; excepting the articles included in class 11:

Class 11.—Woven fabrics composed of linen, cotton, wool, silk, or hair or of any two or more of such materials, if the design be applied by printing, or by any other process by which colours are or may hereafter be produced upon tissue or textile fabrics, such woven fabrics being or coming within the description technically called furnitures, and the repeat of the design whereof shall be more than twelve inches by eight inches:

Class 12.—Woven fabrics not comprised in any preceding class:

Class 13.—Lace, and any article of manufacture or substance not comprised in any preceding class.

Conditions of copyright.

IV. Provided always, and be it enacted, that no person shall be entitled to the benefit of this Act, with regard to any design in respect of the application thereof to ornamenting any article of manufacture, or any such substance, unless such design have before publication thereof been registered according to this Act, and unless at the time of such registration such design have been registered in respect of the application thereof to some or one of the articles of manufacture or substances comprised in the above-mentioned classes, by specifying the number of the class in respect of which such registration is made, and unless the name of such person shall be registered according to this Act as a proprietor of such design, and unless after publication of such design every such article of manufacture, or such substance to which the same shall be so applied, published by him, hath thereon, if the article of manufacture be a woven fabric for printing, at one end thereof, or, if of any other kind or such substance as aforesaid, at the end or edge thereof, or other convenient place thereon, the letters "Rd," together with such number or letter, or number and letter, and in such form as shall correspond with the date of the registration of such design according to the registry of designs in that behalf; and such marks may be put on any such article of manufacture or such substance, either by making the same in or on the material itself of which such article or such substance shall consist, or by attaching thereto a label containing such marks.

Registration.

Marks denoting a registered design.

Who shall be deemed proprietor of the design.

V. And be it enacted, that the author of any such new and original design shall be considered the proprietor thereof, unless he have executed the work on behalf of another person for a good or a valuable consideration, in which case such person shall be considered the proprietor, and shall be entitled to be

registered in the place of the author; and every person acquiring for a good or a valuable consideration a new and original design, or the right to apply the same to ornamenting any one or more articles of manufacture, or any one or more such substances as aforesaid, either exclusively of any other person or otherwise, and also every person upon whom the property in such design or such right to the application thereof shall devolve, shall be considered the proprietor of the design in the respect in which the same may have been so acquired, and to that extent, but not otherwise.

Transfer of copyright, and register thereof.

VI. And be it enacted, that every person purchasing or otherwise acquiring the right to the entire or partial use of any such design may enter his title in the register hereby provided; and any writing purporting to be a transfer of such design, and signed by the proprietor thereof, shall operate as an effectual transfer; and the registrar shall, on request, and the production of such writing, or, in the case of acquiring such right by any other mode than that of purchase, on the production of any evidence to the satisfaction of the registrar, insert the name of the new proprietor in the register; and the following may be the form of such transfer, and of such request to the registrar:

Form of Transfer, and Authority to register.

I A.B., author [or proprietor] of design No. , having transferred my 'right thereto, [or, if such transfer be partial,] so far as regards the 'ornamenting of [describe the articles of manufacture or substances, 'or the locality, with respect to which the right is transferred,] to B.C. of ' , do hereby authorize you to insert his name on the register of 'designs accordingly.'

Form of Request to register.

'I B.C., the person mentioned in the above transfer, do request you to 'register my name and property in the said design as entitled [if to the 'entire use] to the entire use of such design, [or, if to the partial use,] to the 'partial use of such design, so far as regards the application thereof [describe 'the articles of manufacture, or the locality, in relation to which the right is 'transferred].'

But if such request to register be made by any person to whom any such design shall devolve otherwise than by transfer, such request may be in the following form:

'I C.D., in whom is vested by [state bankruptcy or otherwise] the design, 'No. , [or, if such devolution be of a partial right, so far as 'regards the application thereof] to [describe the articles of manufacture or 'substance, or the locality, in relation to which the right has devolved].'

VII. And for preventing the piracy of registered designs, be it enacted, that during the existence of any such right to the entire or partial use of any such design no person shall either do or cause to be done any of the following acts with regard to any articles of manufacture, or substances, in respect of which the copyright of such design shall be in force, without the licence or consent in writing of the registered proprietor thereof; (that is to say,) Piracy of designs.

No person shall apply any such design, or any fraudulent imitation thereof, for the purpose of sale, to the ornamenting of any article of manufacture, or any substance, artificial or natural, or partly artificial and partly natural:

No person shall publish, sell, or expose for sale any article of manufacture, or any substance, to which such design, or any fraudulent imitation thereof, shall have been so applied, after having received, either verbally or in writing, or otherwise, from any source other than the proprietor of such design, knowledge that his consent has not been given to such application, or after having been served with or had left at his premises a written notice signed by such proprietor or his agent to the same effect.

VIII. And be it enacted, that if any person commit any such act, he shall for every offence forfeit a sum not less than five pounds and not exceeding thirty pounds to the proprietor of the design in respect of whose right such offence has been committed; and such proprietor may recover such penalty as follows: Penalties for piracy.

In England, either by an action of debt or on the case against the party offending, or by summary proceeding before two justices having jurisdiction where the party offending resides; and if such proprietor proceed by such summary proceeding, any justice of the peace acting for the county, riding, division, city, or borough where the party offending resides, and not being concerned either in the sale or manufacture of the article of manufacture, or in the design, to which such summary proceeding relates, may issue a summons requiring such party to appear on a day and at a time and place to be named in such summons, such time not being less than eight days from the date thereof; and every such summons shall be served on the party offending, either in person or at his usual place of abode; and either upon the appearance or upon the default to appear of the party offending, any two or more of such justices may proceed to the hearing of the complaint, and upon proof of the offence, either by the confession of the party offending, or upon the oath or affirmation of one or more credible witnesses, which such justices are hereby authorized to administer, may convict the offender in a penalty of not less than five pounds or more than thirty pounds as aforesaid for each offence, as to

such justices doth seem fit; but the aggregate amount of penalties for offences in respect of any one design committed by any one person, up to the time at which any of the proceedings herein mentioned shall be instituted, shall not exceed the sum of one hundred pounds; and if the amount of such penalty or of such penalties, and the costs attending the conviction, so assessed by such justices, be not forthwith paid, the amount of the penalty or of the penalties, and of the costs, together with the costs of the distress and sale, shall be levied by distress and sale of the goods and chattels of the offender, wherever the same happen to be in England; and the justices before whom the party has been convicted, or, on proof of the conviction, any two justices acting for any county, riding, division, city, or borough in England, where goods and chattels of the person offending happen to be, may grant a warrant for such distress and sale; and the overplus, if any, shall be returned to the owner of the goods and chattels, on demand; and every information and conviction which shall be respectively laid or made in such summary proceeding before two justices under this Act may be drawn or made out in the following forms respectively, or to the effect thereof, mutatis mutandis, as the case may require:

FORM of Information.

'BE it remembered, that on the at
'in the county of A.B. of in
'the county of [or C.D. of in the
'county of at the instance and on the behalf of A.B.
'of in the county of] cometh before
'us and two of her Majesty's justices
'of the peace in and for the county of , and giveth us to
'understand that the said A.B., before and at the time when the offence
'herein-after mentioned was committed, was the proprietor of a new and
'original design for [here describe the design], and that within twelve
'calendar months last past, to wit, on the at
'in the county of E.F. of in the county
'of did [here describe the offence], contrary to the
'form of the Act passed in the year of the reign of her
'present Majesty, intituled "An Act to consolidate and amend the laws
'"relating to the copyright of designs for ornamenting articles of
'manufacture."'

FORM of Conviction.

'BE it remembered, that on the day of
'in the year of our Lord at in the

'county of E.F. of in the county aforesaid
'is convicted before us and two of her
'Majesty's justices of the peace for the said county, for that he the said
'E.F. on the day of in the year
'at in the county of did [here describe
'the offence] contrary to the form of the statute in that case made and
'provided; and we the said justices do adjudge that the said E.F. for
'his offence aforesaid hath forfeited the sum of to the
'said A.B.'

In Scotland, by action before the court of session in ordinary form, or by summary action before the sheriff of the county where the offence may be committed or the offender resides, who, upon proof of the offence or offences, either by confession of the party offending or by the oath or affirmation of one or more credible witnesses, shall convict the offender and find him liable in the penalty or penalties aforesaid, as also in expences; and it shall be lawful for the sheriff, in pronouncing such judgment for the penalty or penalties and costs, to insert in such judgment a warrant, in the event of such penalty or penalties and costs not being paid, to levy and recover the amount of the same by poinding: Provided always, that it shall be lawful to the sheriff, in the event of his dismissing the action, and assoilzieing the defender, to find the complainer liable in expences; and any judgment so to be pronounced by the sheriff in such summary application shall be final and conclusive, and not subject to review by advocation, suspension, reduction, or otherwise:

In Ireland, either by action in a superior court of law at Dublin, or by civil bill in the civil bill court of the county or place where the offence was committed.

Proviso as to action for damages.

IX. Provided always, and be it enacted, that, notwithstanding the remedies hereby given for the recovery of any such penalty as aforesaid, it shall be lawful for the proprietor in respect of whose right such penalty shall have been incurred (if he shall elect to do so) to bring such action as he may be entitled to for the recovery of any damages which he shall have sustained, either by the application of any such design or of a fraudulent imitation thereof, for the purpose of sale, to any articles of manufacture or substances, or by the publication, sale or exposure to sale as aforesaid, by any person, of any article or substance to which such design or any fraudulent imitation thereof shall have been so applied, such person knowing that the proprietor of such design had not given his consent to such application.

Registration may in some cases be

X. And be it enacted, that in any suit in equity which may be instituted by the proprietor of any design or the person lawfully entitled thereto, relative

cancelled or amended.

to such design, if it shall appear to the satisfaction of the judge having cognizance of such suit that the design has been registered in the name of a person not being the proprietor or lawfully entitled thereto, it shall be competent for such judge, in his discretion, by a decree or order in such suit to direct either that such registration be cancelled (in which case the same shall thenceforth be wholly void), or that the name of the proprietor of such design, or other person lawfully entitled thereto, be substituted in the register for the name of such wrongful proprietor or claimant, in like manner as is herein-before directed in case of the transfer of a design, and to make such order respecting the costs of such cancellation or substitution, and of all proceedings to procure and effect the same, as he shall think fit; and the registrar is hereby authorized and required, upon being served with an official copy of such decree or order, and upon payment of the proper fee, to comply with the tenor of such decree or order, and either cancel such registration or substitute such new name, as the case may be.

Penalty for wrongfully using marks denoting a registered design.

XI. And be it enacted, that unless a design applied to ornamenting any article of manufacture or any such substance as aforesaid be so registered as aforesaid, ... and also after the copyright of such design in relation to such article or substance shall have expired, it shall be unlawful to put on any such article or such substance, in the manner herein-before required with respect to articles or substances whereto shall be applied a registered design, the marks herein-before required to be so applied, or any marks corresponding therewith or similar thereto; and if any person shall so unlawfully apply any such marks, or shall publish, sell or expose for sale any article of manufacture or any substance with any such marks so unlawfully applied, knowing that any such marks have been unlawfully applied, he shall forfeit for every such offence a sum not exceeding five pounds, which may be recovered by any person proceeding for the same by any of the ways herein-before directed with respect to penalties for pirating any such design.

Limitation of actions.

XII. And be it enacted, that no action or other proceeding for any offence or injury under this Act shall be brought after the expiration of twelve calendar months from the commission of the offence; and in every such action or other proceeding the party who shall prevail shall recover his full costs of suit or of such other proceeding.

Costs.

Justices may order payment of costs in cases of summary proceeding.

XIII. And be it enacted, that in the case of any summary proceeding before any two justices in England such justices are hereby authorized to award payment of costs to the party prevailing, and to grant a warrant for enforcing payment thereof against the summoning party, if unsuccessful, in the like manner as is herein-before provided for recovering any penalty with costs against any offender under this Act.

XIV And for the purpose of registering designs for articles of manufacture, in order to obtain the protection of this Act, be it enacted, that the lords of the committee of privy council for the consideration of all matters of trade and plantations may appoint a person to be a registrar of designs for ornamenting articles of manufacture, and, if the lords of the said committee see fit, a deputy registrar, clerks, and other necessary officers and servants; . . . . . and [Repealed, Stat. Law Rev. Act, 1874 (No. 2).] subject to the provisions of this Act, the lords of the said committee may make rules for regulating the execution of the duties of the office of the said registrar; . . . . . .

Registrar of designs, &c. to be appointed.

XV. And be it enacted, that the said registrar shall not register any design in respect of any application thereof to ornamenting any articles of manufacture or substances, unless he be furnished, in respect of each such application, with two copies, drawings, or prints of such design, accompanied with the name of every person who shall claim to be proprietor, or of the style or title of the firm under which such proprietor may be trading, with his place of abode or place of carrying on his business, or other place of address, and the number of the class in respect of which such registration is made; and the registrar shall register all such copies, drawings, or prints, from time to time successively as they are received by him for that purpose; and on every such copy, drawing, or print he shall affix a number corresponding to such succession; and he shall retain one copy, drawing, or print, which he shall file in his office, and the other he shall return to the person by whom the same has been forwarded to him; and in order to give ready access to the copies of designs so registered, he shall class such copies of designs, and keep a proper index of each class.

Particulars to be furnished to registrar.

Mode, &c. of registration.

XVI. And be it enacted, that upon every copy, drawing, or print of an original design so returned to the person registering as aforesaid, or attached thereto, and upon every copy, drawing, or print thereof received for the purpose of such registration or of the transfer of such design being certified thereon or attached thereto, the registrar shall certify under his hand that the design has been so registered, the date of such registration, and the name of the registered proprietor, or the style or title of the firm under which such proprietor may be trading, with his place of abode or place of carrying on his business, or other place of address, and also the number of such design, together with such number or letter, or number and letter, and in such form as shall be employed by him to denote or correspond with the date of such registration; and such certificate made on every such original design, or on such copy thereof, and purporting to be signed by the registrar or deputy registrar, and purporting to have the seal of office of such registrar affixed thereto, shall, in the absence of evidence to the contrary, be sufficient proof, as follows,

Certificate of registration of design.

Of the design, and of the name of the proprietor therein mentioned, having been duly registered; and

Of the commencement of the period of registry; and

Of the person named therein as proprietor being the proprietor; and

Of the originality of the design; and

Of the provisions of this Act, and of any rule under which the certificate appears to be made, having been complied with:

And any such writing purporting to be such certificate shall, in the absence of evidence to the contrary, be received as evidence, without proof of the handwriting of the signature thereto, or of the seal of office affixed thereto, or of the person signing the same being the registrar or deputy registrar.

Inspection of registered designs.

XVII. And be it enacted, that every person shall be at liberty to inspect any design whereof the copyright shall have expired, paying only such fee as shall be appointed by virtue of this Act in that behalf; but with regard to designs whereof the copyright shall not have expired, no such design shall be open to inspection, except by a proprietor of such design, or by any person authorized by him in writing, or by any person specially authorized by the registrar, and then only in the presence of such registrar or in the presence of some person holding an appointment under this Act, and not so as to take a copy of any such design or of any part thereof, nor without paying for every such inspection such fee as aforesaid: Provided always, that it shall be lawful for the said registrar to give to any person applying to him, and producing a particular design together with the registration mark thereof, or producing such registration mark only, a certificate stating whether of such design there be any copyright existing, and, if there be, in respect to what particular article of manufacture or substance such copyright exists, and the term of such copyright, and the date of registration, and also the name and address of the registered proprietor thereof.

Payment and application of fees of registration.

XVIII. And be it enacted, that the commissioners of the treasury shall from time to time fix fees to be paid for the services to be performed by the registrar, as they shall deem requisite, to defray the expences of the said office, and the salaries or other remuneration of the said registrar, and of any other persons employed under him, with the sanction of the commissioners of the treasury, in the execution of this Act; and the balance, if any, shall be carried to the consolidated fund of the United Kingdom, and be paid accordingly into the receipt of her Majesty's exchequer at Westminster; and the commissioners of the treasury may regulate the manner in which such fees are to be received, and in which they are to be kept, and in which they are to be accounted for; and they may also remit or dispense with the payment of such fees in any cases where they may think it expedient so to do: Provided always, that the fee for registering a design to be applied to any woven fabric mentioned or comprised in classes 7, 9, or 10, shall not exceed the sum of one shilling; that

the fee for registering a design to be applied to a paper hanging shall not exceed the sum of ten shillings; and that the fee to be received by the registrar for giving a certificate relative to the existence or expiration of any copyright in any design printed on any woven fabric, yarn, thread, or warp, or printed, embossed, or worked on any paper hanging, to any person exhibiting a piece end of a registered pattern, with the registration mark thereon, shall not exceed the sum of two shillings and sixpence.

Penalty for extortion by registrar, &c.

XIX. And be it enacted, that if either the registrar or any person employed under him either demand or receive any gratuity or reward, whether in money or otherwise, except the salary or remuneration authorized by the commissioners of the treasury, he shall forfeit for every such offence fifty pounds to any person suing for the same by action of debt in the court of exchequer at Westminster; and he shall also be liable to be either suspended or dismissed from his office, and rendered incapable of holding any situation in the said office, as the commissioners of the treasury see fit.

Interpretation of terms.

XX. And for the interpretation of this Act, be it enacted, that the following terms and expressions, so far as they are not repugnant to the context of this Act, shall be construed as follows; (that is to say) the expression "commissioners of the treasury" shall mean the lord high treasurer for the time being, or the commissioners of her Majesty's treasury for the time being, or any three or more of them; and the singular number shall include the plural as well as the singular number; and the masculine gender shall include the feminine gender as well as the masculine gender.

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Schedules referred to by the foregoing Act.

Schedule (A.) [a]

Date of Acts.	
27 Geo. 3. c. 38. (1787.)	An Act for the encouragement of the arts of designing and printing linens, cottons, calicoes, and muslins, by vesting the properties thereof in the designers, printers, and proprietors for a limited time.
29 Geo. 3. c. 19. (1789.)	An Act for continuing an Act for the encouragement of the arts of designing and printing linens, cottons, calicoes, and muslins, by vesting the properties thereof in the designers, printers, and proprietors for a limited time.
34 Geo. 3. c. 23. (1794.)	An Act for amending and making perpetual an Act for the encouragement of the arts of designing and printing linens, cottons, calicoes, and muslins, by vesting the properties thereof in the designers, printers, and proprietors for a limited time.
2 Vict. c. 13. (1839.)	An Act for extending the copyright of designs for calico printing to designs for printing other woven fabrics.

[a Schedules (A.) and (B.) are repealed, Stat. Law Rev. Act, 1874 (No. 2).]

SCHEDULE (B.) [a]

DATE OF ACT.	TITLE.
2 Vict. c. 17. (1839.)	An Act to secure to proprietors of designs for articles of manufacture the copyright of such designs for a limited time.

SCHEDULE (C.)

DATE OF ACTS.	TITLE.
38 Geo. 3. c. 71. (1798)	An Act for encouraging the art of making new models and casts of busts and other things therein mentioned.
51 Geo. 3. c. 56. (1814)	An Act to amend and render more effectual an Act for encouraging the art of making new models and casts of busts and other things therein mentioned, and for giving further encouragement to such arts.

5 & 6 VICTORIA. A. D. 1842.

CHAPTER CXIX.

An Act to enable Her Majesty to grant Furlough Allowances to the Bishops of Calcutta, Madras, and Bombay, who shall return to Europe for a limited Period after residing in India a sufficient Time to entitle them to the highest Scale of Pension. [*12th August 1842.*]

WHEREAS by law the salaries of the bishops of Calcutta, Madras, and Bombay respectively are payable to them respectively only so long as they respectively exercise the functions of their several offices in the East Indies, and no longer; and the pensions which her Majesty is empowered to grant to such bishops respectively, can by law be granted only on their respective resignation of their said offices: And whereas it is expedient to enable her Majesty to make a moderate provision for such of the said bishops who, after such residence in the East Indies as herein-after mentioned, shall, with her Majesty's permission, return to Europe for a period not exceeding

[a Schedules (A) and (B) are repealed, Stat. Law Rev. Act, 1874 (No. 2)]

eighteen calendar months, and also to provide for making a further payment to the bishop of Madras and the bishop of Bombay respectively, if, during such absence of the bishop of Calcutta, such bishop of Madras or Bombay shall perform the functions of the said bishop of Calcutta: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that in case her Majesty shall be pleased from time to time or at any time to grant permission to any bishop of Calcutta who shall have resided in the East Indies for a period of ten years, and to any bishop of Madras or of Bombay who shall have resided in the East Indies for a period of fifteen years, to return to Europe for a period not exceeding eighteen calendar months from the time of departure from the East Indies, then and in every such case it shall be lawful for her Majesty, in manner mentioned in an Act of the fifty-third year of the reign of his Majesty George the Third as to the grant of the pension to the bishop of Calcutta, to grant to such bishop of Calcutta, Madras, or Bombay respectively, so returning to Europe, a furlough allowance not exceeding the highest amount of pension which her Majesty is by law empowered to grant to any such bishop, and for a period not exceeding eighteen calendar months from the time of the departure of such bishop from the East Indies.

Her Majesty may grant allowances to East India bishops absent on leave.

53 Geo. 3. c. 155.

II. And be it enacted, that it shall be lawful for her Majesty to grant to any such bishop who, having obtained such furlough and received such furlough allowance, shall have returned to the East Indies, and have resumed the functions of his office, a second furlough of similar duration and of similar amount, to commence from and after the expiration of five years from the time of such bishop's resuming the exercise of his functions in the East Indies.

Second furlough may be granted.

III. Provided always, and it is hereby enacted, that it shall not be lawful for her Majesty to grant such furlough allowance to more than one such bishop at one and the same time.

Allowance to but one bishop at a time.

IV. And be it enacted, that in case it shall please her Majesty to extend the ecclesiastical jurisdiction and functions of the bishops of Madras and Bombay, or of either of them, so as to enable such last-mentioned bishop, during such absence of the bishop of Calcutta, to perform the functions of the said bishop of Calcutta, then and in that case, so long as the bishop of Madras or the bishop of Bombay shall perform the functions of the bishop of Calcutta, the said bishop of Madras or the bishop of Bombay shall, in addition to his salary as bishop of Madras or Bombay, have and be entitled to a further annual allowance of ten thousand company's rupees for so long time as he shall perform the functions of such bishop of Calcutta.

Additional allowance to bishop of Madras or Bombay performing functions of bishop of Calcutta absent on furlough.

6 & 7 VICTORIA. A. D. 1843.

Chapter XXII.

An Act to authorize the Legislatures of certain of Her Majesty's Colonies to pass Laws for the Admission, in certain Cases, of unsworn Testimony in Civil and Criminal Proceedings. [*31st May 1843.*]

Whereas there are resident within the limits of or in countries adjacent to divers of the British colonies and plantations abroad various tribes of barbarous and uncivilized people, who, being destitute of the knowledge of God and of any religious belief, are incapable of giving evidence on oath in any court of justice within such colonies or plantations: And whereas doubts have arisen whether any laws which have been or which might be made by the legislatures of such colonies respectively to provide for the admissibility in such courts of the evidence of such persons are not or would not be repugnant to the law of England, and therefore null and void; and it is expedient that such doubts should be removed: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that no law or ordinance made or to be made by the legislature of any British colony for the admission of the evidence of any such persons as aforesaid in any court or before any magistrate within any such colony shall be or be deemed to have been null and void or invalid by reason of any repugnancy or supposed repugnancy of any such enactment to the law of England, but that every law or ordinance made or to be made by any such legislature as aforesaid, for the admission before any such court or magistrate of the evidence of any such persons as aforesaid on any conditions thereby imposed, shall have such and the same effect, and shall be subject to the confirmation or disallowance of her Majesty in such and the same manner, as any other law or ordinance enacted for any other purpose by any such colonial legislature.

Laws or ordinances made by the legislatures of British colonies for admission of the evidence of certain persons residing therein shall have the same effect as any other laws or ordinances of any such legislature.

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6 & 7 VICTORIA. A. D. 1843.

Chapter XXXVIII.

An Act to make further Regulations for facilitating the hearing Appeals and other Matters by the Judicial Committee of the Privy Council.

[*28th July 1843.*]

Whereas it has been found expedient to make further regulations for

hearing and making report to her Majesty in appeals and other matters referred to the judicial committee of the privy council, and for the more effectual appointment of surrogates in ecclesiastical and maritime causes of appeal, and for making orders or decrees incidental to such causes of appeal, and for the punishment of contempts, and compelling appearances and enforcement of judgments, orders, and decrees of her Majesty in council, or of the said judicial committee, or their surrogates, in such causes of appeal: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that in any appeal, application for prolongation or confirmation of letters patent, or other matter referred or hereafter to be referred by her Majesty in council to the judicial committee of the privy council, it shall be lawful for her Majesty, by order in council or special direction under her royal sign manual, having regard to the nature of the said appeal or other matter, and in respect of the same not requiring the presence of more than three members of the said committee, to order that the same be heard, and when so ordered it shall be lawful that the same shall be accordingly heard, by not less than three of the members of the said judicial committee, subject to such other rules as are applicable, or under this Act may be applicable, to the hearing and making report on appeals and other matters by four or more of the members of the said judicial committee.

Appeals, &c. may be heard by not less than three members of the judicial committee of the privy council under a special order of her Majesty.

II. And be it enacted, that in respect of all incidents, emergents, dependents, and things adjoined to, arising out of, or connected with appeals from any ecclesiastical court, or from any admiralty or vice admiralty court (save in giving a definitive sentence, or any interlocutory decree having the force and effect of a definitive sentence), the said judicial committee and their surrogates shall have full power, subject to such rules, orders, and regulations as shall from time to time be made by the said judicial committee (with the approval of her Majesty in council), to make all such interlocutory orders and decrees, and to administer all such oaths and affirmations, and to do all such things as may be necessary, or the judges of the courts below appealed from or their surrogates in the cases appealed, or the judges of the courts appealed to or their surrogates, or the lords commissioners of appeals in prize causes or their surrogates, and the judges delegate or their condelegates under commissions of appeal under the great seal in ecclesiastical and maritime causes of appeal, would respectively have had before an Act passed in the third year of the reign of his late Majesty, intituled "An Act for transferring the powers "of the high court of delegates, both in ecclesiastical and maritime causes, "to his Majesty in council," and another Act passed in the following session

Powers of the judicial committee and their surrogates in respect to interlocutory orders, &c., in appeals from ecclesiastical and admiralty courts.

2 & 3 Will. 4, c. 92.

3 & 4 Will. 4. c. 41.

of Parliament, intituled "An Act for the better administration of justice "in his Majesty's privy council," were passed.

Who to be surrogates and examiners of the judicial committee in ecclesiastical and admiralty appeals.

III. And be it enacted, that the surrogates and examiners of the Arches Court of Canterbury and the High Court of Admiralty of England, and such persons as shall from time to time be appointed surrogates or examiners of the said courts, shall be by virtue of this Act surrogates and examiners respectively of the judicial committee of the privy council in all causes of appeal from ecclesiastical courts and from any admiralty or vice admiralty court.

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Manner of conducting appeals before the judicial committee.

V. And be it enacted, that, subject to such rules and regulations as may from time to time be made by the said judicial committee with the approval of her Majesty in council, and save and in so much as the practice thereof may be varied by the said Acts of the reign of his late Majesty or by this Act, the said causes of appeal to her Majesty in council shall be commenced within the same times, and conducted in the same form and manner, and by the same persons and officers, as if appeals in the same causes had been made to the Queen in Chancery, the High Court of Admiralty of England, or the lords commissioners of appeals in prize causes respectively; and all things otherwise lawfully done and expedited in the said causes of appeal by the registrar of the High Court of Admiralty of England, his deputy or deputies, in consequence of the passing of the said Acts of the reign of his late Majesty, shall be deemed to be valid to all intents whatsoever.

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Punishing contempts, compelling appearances, enforcing judgments, &c. in such appeals.

VII. And be it enacted, that for better punishing contempts, compelling appearances, and enforcing judgments of her Majesty in council, and all orders and decrees of the said judicial committee or their surrogates, in all causes of appeal from ecclesiastical courts and from admiralty or vice admiralty courts, her Majesty in council and the said judicial committee and their surrogates shall have the same powers, by attachment and committal of the person to any of her Majesty's gaols, and subsequent discharge of any person so committed, as by any statute, custom, or usage belong to the judge of the High Court of Admiralty of England; and the said judicial committee shall have the same immunities and privileges as are conferred on the judge of the High Court of Admiralty of England under an Act passed in the fourth year of the reign of her Majesty, intituled "An Act to improve the practice and extend "the jurisdiction of the High Court of Admiralty of England," as fully as if the same had been thereby expressly given to the said judicial committee.

3 & 4 Vict. c. 65.

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Inhibitions, &c. in such appeals to be

IX. And be it enacted, that all inhibitions, citations, monitions, and other instruments incidental to or arising out of such causes of appeal shall be issued

in the name of her Majesty, and under seal of her Majesty in ecclesiastical and maritime causes, and shall be of full authority in all places throughout the dominions of her Majesty.

in her Majesty's name and under seal, and of force throughout the British dominions.

X. And be it enacted, that in all appeals in ecclesiastical and maritime causes to her Majesty in council it shall be lawful for her Majesty in council, and the said judicial committee or their surrogates, at the petition of any person interested in the same, to decree monitions for the transmission of any sum or sums of money respecting which any order or decree may be made, or any questions may be depending arising out of such causes, and the proceeds of all ships or vessels, goods, and cargoes respecting which any appeals may be depending, into the registry of the High Court of Admiralty and Appeals, for the benefit of the person or persons who may be ultimately entitled thereto, or for payment thereof to the person to whom the same may be lawfully due.

Monitions for transmission of sums into the registry of the Admiralty Court in ecclesiastical and maritime appeals, and for payment to persons entitled.

XI. And be it enacted, that it shall be lawful for her Majesty, by order in council, to direct that all causes of appeal from ecclesiastical courts, ... , in which the appeal and petition of reference to her Majesty shall have been lodged in the registry of the High Court of Admiralty and Appeals within twelve calendar months from the giving or pronouncing of any order, decree, or sentence appealed from, ... , shall be referred to the judicial committee of the privy council, and the said judicial committee and their surrogates shall have full power forthwith to proceed in the said appeals, and the usual inhibition and citation shall be decreed and issued, and all usual proceedings taken, as if the same had been referred to the said judicial committee by a special order of her Majesty in council in each cause respectively.

All appeals from ecclesiastical courts may be referred to the judicial committee by a general order in council, and may proceed as if referred by a special order in each

XII. And be it declared and enacted, that as well the costs of defending any decree or sentence appealed from as of prosecuting any appeal, or in any manner intervening in any cause of appeal, and the costs on either side, or of any party, in the court below, and the costs of opposing any matter which shall be referred to the said judicial committee, and the costs of all such issues as shall be tried by direction of the said judicial committee respecting any such appeal or matter, shall be paid by such party or parties, person or persons, as the said judicial committee shall order, and that such costs shall be taxed as in and by the said Act for the better administration of justice in the privy council is directed respecting the costs of prosecuting any appeal or matter referred by her Majesty under the authority of the said Act, save the costs arising out of any ecclesiastical or maritime cause of appeal, which shall be taxed by the registrar herein-after named, or his assistant registrar.

Costs may be awarded by the judicial committee, and taxed.

Appointment of registrar and assistant registrar in ecclesiastical and maritime causes. 3 & 4 Vict. c. 66.

XIII. And be it enacted, that the registrar of the High Court of Admiralty of England for the time being may be appointed by her Majesty to be registrar of her Majesty in ecclesiastical and maritime causes, and shall have power to appoint an assistant registrar, as provided by an Act passed in the fourth year of the reign of her Majesty, intituled "An Act to make provision for the "judge, registrar, and marshall of the High Court of Admiralty of England," and shall during his good behaviour, and while he shall be registrar of the said High Court of Admiralty, hold his office of registrar of her Majesty in ecclesiastical and maritime causes, and shall do all such things, and shall have the same powers and privileges in respect to the same, as belong to his predecessors in the office of registrar of his Majesty in ecclesiastical and maritime causes.

Custody of records, &c. of the Court of Delegates and Appeals.

XIV. And be it enacted, that all records, muniments, books, papers, wills, and other documents remaining in the registry of the High Court of Admiralty and Appeals, appertaining to the late High Court of Delegates and Appeals for Prizes, shall be and remain in the custody and possession of the said registrar of her Majesty in ecclesiastical and maritime causes.

Judicial committee empowered to make rules, &c. respecting practice and mode of proceeding in appeals, &c.

XV. And be it enacted, that it shall be lawful for the said judicial committee from time to time to make such rules, orders, and regulations respecting the practice and mode of proceeding in all appeals from ecclesiastical and admiralty and vice admiralty courts, and the conduct and duties of the officers and practitioners therein, and to appoint such officer or officers as may be necessary for the execution of processes under the said seal of her Majesty, and in respect to all appeals and other matters referred to them, as to them shall seem fit, and from time to time to repeal or alter such rules, orders, or regulations: Provided always, that no such rules, orders, or regulations shall be of any force or effect until the same shall have been approved by her Majesty in council.

Rules to be approved by her Majesty in council.

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Definition of terms.

XVII. And be it enacted, that in this Act all words denoting a male person shall be taken to include a female also, and all words denoting one person or thing shall be taken to include also several persons or things, unless a contrary sense shall clearly appear from the context; and that the words "Arches Court of Canterbury," used in this Act, shall be construed to extend to such court as shall exercise the jurisdiction of the said court or be substituted for the same; and that wherever the words "ecclesiastical court" have been used in this Act the same shall be construed to extend to such court as shall exercise the jurisdiction or any part of the jurisdiction exercised by any ecclesiastical court or be substituted for the same; and the words "ecclesiastical and maritime cause of appeal" shall be construed to extend to causes appealed

from ecclesiastical courts and such court as shall exercise the jurisdiction or any part of the jurisdiction exercised by any ecclesiastical court or be substituted for the same.

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6 & 7 VICTORIA. A. D. 1843.

CHAPTER LXV.

An Act to amend the Laws relating to the Copyright of Designs.

[*22nd August 1843.*]

WHEREAS by an Act passed in the fifth and sixth years of the reign of her present Majesty, intituled "An Act to consolidate and amend the laws relating to the copyright of designs for ornamenting articles of manufacture," there was granted to the proprietor of any new and original design, with the exceptions therein mentioned, the sole right to apply the same to the ornamenting of any article of manufacture or any such substance as therein described during the respective periods therein mentioned: And whereas it is expedient to extend the protection afforded by the said Act to such designs herein-after mentioned, not being of an ornamental character, as are not included therein: . . . . . 5 & 6 Vict. c. 100.

II. AND with regard to any new or original design for any article of manufacture having reference to some purpose of utility, so far as such design shall be for the shape or configuration of such article, and that whether it be for the whole of such shape or configuration or only for a part thereof, be it enacted, that the proprietor of such design not previously published within the United Kingdom of Great Britain and Ireland or elsewhere shall have the sole right to apply such design to any article, or make or sell any article according to such design, for the term of three years, to be computed from the time of such design being registered according to this Act: Provided always, that this enactment shall not extend to such designs as are within the provisions of the said Act, or of two other Acts passed respectively in the thirty-eighth and fifty-fourth years of the reign of his late Majesty King George the Third, and intituled respectively "An Act for encouraging the art of making new models and casts of busts, and other things therein mentioned"[a], and "An Act to amend and render more effectual an Act for encouraging the art of making new models and casts of busts, and other things therein mentioned."

Grant of copyright in designs for shape of articles of manufacture.

Not to extend to designs within recited Act, or 38 Geo 3. c. 71, and 54 Geo 3 c. 56.

III. PROVIDED always, and be it enacted, that no person shall be entitled to the benefit of this Act unless such design have before publication thereof

Conditions of copyright.

[a Section 2 so far as it relates to 38 Geo. 3 c. 71, is repealed, Stat. Law Rev. Act, 1871 (No 2)]

been registered according to this Act, and unless the name of such person shall be registered according to this Act as a proprietor of such design, and unless after publication of such design every article of manufacture made by him according to such design, or on which such design is used, hath thereon the word "registered," with the date of registration.

Penalty for wrongfully using marks denoting a registered design.

IV. And be it enacted, that unless a design applied to any article of manufacture be registered either as aforesaid or according to the provisions of the said first-mentioned Act, and also after the copyright of such design shall have expired, it shall be unlawful to put on any such article the word "registered," or to advertise the same for sale as a registered article; and if any person shall so unlawfully publish, sell, or expose or advertise for sale any such article of manufacture, he shall forfeit for every such offence a sum not exceeding five pounds nor less than one pound, which may be recovered by any person proceeding for the same by any of the remedies hereby given for the recovery of penalties for pirating any such design.

Floor or oil cloths to be included in class six in 5 & 6 Vict. c. 100.

V. And be it enacted, that all such articles of manufacture as are commonly known by the name of floor cloths or oil cloths shall henceforth be considered as included in class six in the said first-mentioned Act in that behalf mentioned, and be registered accordingly.

Certain provisions of 5 & 6 Vict. c. 100. to apply to this Act.

VI. And be it enacted, that all and every the clauses and provisions contained in the said first-mentioned Act, so far as they are not repugnant to the provisions contained in this Act, relating respectively to the explanation of the term proprietor, to the transfer of designs, to the piracy of designs, to the mode of recovering penalties, to actions for damages, to cancelling and amending registrations, to the limitation of actions, to the awarding of costs, to the certificate of registration, to the fixing and application of fees of registration, and to the penalty for extortion, shall be applied and extended to this present Act as fully and effectually, and to all intents and purposes, as if the said several clauses and provisoes had been particularly repeated and re-enacted in the body of this Act.

Appointment of registrar, &c.

VII. And be it enacted, that so much of the said first-mentioned Act as relates to the appointment of a registrar of designs for ornamenting articles of manufacture, and other officers, as well as to the fixing of the salaries for the payment of the same, shall be and the same is hereby repealed; and [Repealed, Stat. Law Rev. Act, 1874 (No. 2).] for the purpose of carrying into effect the provisions as well of this Act as of the said first-mentioned Act, the lords of the committee of the privy council for the consideration of all matters of trade and plantations may appoint a person to be registrar of designs for articles of manufacture, and, if the lords of the said committee see fit, an assistant registrar and other necessary officers and servants; and such registrar, assistant registrar, officers, and servants

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shall hold their offices during the pleasure of the lords of the said committee; and such registrar shall have a seal of office; and the commissioners of her Majesty's treasury may from time to time fix the salary or other remuneration of such registrar, assistant registrar, and other officers and servants; and all the provisions contained in the said first-mentioned Act, and not hereby repealed, relating to the registrar, deputy registrar, clerks, and other officers and servants thereby appointed and therein named, shall be construed and held to apply respectively to the registrar, assistant registrar, and other officers and servants to be appointed under this Act.

Registrar's duties as to registration of designs under this Act.

VIII. And be it enacted, that the said registrar shall not register any design for the shape or configuration of any article of manufacture as aforesaid unless he be furnished with two exactly similar drawings or prints of such design, with such description in writing as may be necessary to render the same intelligible according to the judgment of the said registrar, together with the title of the said design, and the name of every person who shall claim to be proprietor, or of the style or title of the firm under which such proprietor may be trading, with his place of abode, or place of carrying on business, or other place of address; and every such drawing or print, together with the title and description of such design, and the name and address of the proprietor aforesaid, shall be on one sheet of paper or parchment, and on the same side thereof; and the size of the said sheet shall not exceed twenty-four inches by fifteen inches; and there shall be left on one of the said sheets a blank space on the same side on which are the said drawings, title, description, name, and address, of the size of six inches by four inches, for the certificate herein mentioned; and the said drawings or prints shall be made on a proper geometric scale; and the said description shall set forth such part or parts of the said design (if any) as shall not be new or original; and the said registrar shall register all such drawings or prints from time to time as they are received by him for that purpose; and on every such drawing or print he shall affix a number corresponding to the order of succession in the register, and he shall retain one drawing or print which he shall file at his office, and the other he shall return to the person by whom the same has been forwarded to him; and in order to give a ready access to the designs so registered he shall keep a proper index of the titles thereof.

Drawings, &c. to be furnished to registrar; and registered. numbered, and indexed.

Discretionary power as to registry vested in the registrar.

IX. And be it enacted, that if any design be brought to the said registrar to be registered under the said first-mentioned Act, and it shall appear to him that the same ought to be registered under this present Act, it shall be lawful for the said registrar to refuse to register such design otherwise than under the present Act and in the manner hereby provided; and if it shall appear to the said registrar that the design brought to be registered under

the said first-mentioned Act or this Act is not intended to be applied to any article of manufacture, but only to some label, wrapper, or other covering in which such article might be exposed for sale, or that such design is contrary to public morality or order, it shall be lawful for the said registrar, in his discretion, wholly to refuse to register such design: Provided always, that the lords of the said committee of privy council may, on representation made to them by the proprietor of any design so wholly refused to be registered as aforesaid, if they shall see fit, direct the said registrar to register such design, whereupon and in such case the said registrar shall be and is hereby required to register the same accordingly.

Appeal to Board of Trade against refusal to register.

Inspection of index of titles of designs, &c.

X. And be it enacted, that every person shall be at liberty to inspect the index of the titles of the designs, not being ornamental designs, registered under this Act, and to take copies from the same, paying only such fees as shall be appointed by virtue of this Act in that behalf; and every person shall be at liberty to inspect any such design, and to take copies thereof, paying such fee as aforesaid; but no design whereof the copyright shall not have expired shall be open to inspection, except in the presence of such registrar, or in the presence of some person holding an appointment under this Act, and not so as to take a copy of such design, nor without paying such fee as aforesaid.

Interpretation of Act.

XI. And, for the interpretation of this Act, be it enacted, that the following terms and expressions, so far as they are not repugnant to the context of this Act, shall be construed as follows; (that is to say), the expression "commissioners of the treasury" shall mean the lord high treasurer for the time being, or the commissioners of her Majesty's treasury of the United Kingdom of Great Britain and Ireland for the time being, or any three or more of them; and the singular number shall include the plural as well as the singular number, and the masculine gender shall include the feminine gender as well as the masculine gender.

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6 & 7 VICTORIA. A. D. 1843.

Chapter XCIV.

An Act to remove Doubts as to the Exercise of Power and Jurisdiction by Her Majesty within divers Countries and Places out of Her Majesty's Dominions, and to render the same more effectual. [*24th August 1843.*]

Whereas by treaty, capitulation, grant, usage, sufferance, and other lawful means, her Majesty hath power and jurisdiction within divers countries

and places out of her Majesty's dominions: And whereas doubts have arisen how far the exercise of such power and jurisdiction is controlled by and dependent on the laws and customs of this realm, and it is expedient that such doubts should be removed: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that it is and shall be lawful for her Majesty to hold, exercise, and enjoy any power or jurisdiction which her Majesty now hath or may at any time hereafter have within any country or place out of her Majesty's dominions, in the same and as ample a manner as if her Majesty had acquired, such power or jurisdiction by the cession or conquest of territory.

The power acquired by her Majesty in countries out of her dominions shall be held on the same terms as if acquired by conquest or cession of territory.

II. And be it enacted, that every act, matter, and thing which may at any time be done, in pursuance of any such power or jurisdiction of her Majesty, in any country or place out of her Majesty's dominions, shall, in all courts ecclesiastical and temporal and elsewhere within her Majesty's dominions, be and be deemed and adjudged to be, in all cases and to all intents and purposes whatsoever, as valid and effectual as though the same had been done according to the local law then in force within such country or place.

Acts done in pursuance of such power to be of the same effect as if done under local laws.

III. And be it enacted, that if in any suit or other proceedings, whether civil or criminal, in any court ecclesiastical or temporal within her Majesty's dominions, any issue or question of law or of fact shall arise for the due determination whereof it shall, in the opinion of the judge or judges of such court, be necessary to produce evidence of the existence of any such power or jurisdiction as aforesaid, or of the extent thereof, it shall be lawful for the judge or judges of any such court, and he or they are hereby authorized, to transmit, under his or their hand and seal or hands and seals, to one of her Majesty's principal secretaries of state, questions by him or them properly framed respecting such of the matters aforesaid as it may be necessary to ascertain in order to the due determination of any such issue or question as aforesaid; and such secretary of state is hereby empowered and required, within a reasonable time in that behalf, to cause proper and sufficient answers to be returned to all such questions, and to be directed to the said judge or judges, or their successors; and such answers shall, upon production thereof, be final and conclusive evidence, in such suit or other proceedings, of the several matters therein contained and required to be ascertained thereby.

Courts authorized to procure evidence of the existence of such power by application to secretary of state.

IV. And whereas it may in certain cases be expedient that crimes and offences committed within such countries or places as aforesaid should be inquired of, tried, determined, and punished within her Majesty's dominions: Be it enacted, that it shall and may be lawful for any person having authority derived from her Majesty in that behalf, by warrant under his hand and seal,

Power to send persons charged with

crimes in any such counties for trial to a British colony.

to cause any person charged with the commission of any crime or offence the cognizance whereof may at any time appertain to any judge, magistrate, or other officer of her Majesty within any such country or place as aforesaid to be sent for trial to any British colony which her Majesty may by any order or orders in council from time to time appoint in that behalf; and upon the arrival of such person within such colony it shall and may be lawful for the supreme court exercising criminal jurisdiction within the same to cause such person to be kept in safe and proper custody, and, so soon as conveniently may be, to inquire of, try, and determine such crime or offence, and upon conviction of the person so charged as aforesaid to correct and punish him according to the laws in force in that behalf within such colony, in the same manner as if the said crime or offence had been committed within the jurisdiction of such supreme court: Provided always, that before any such person shall be sent for trial to any such colony as aforesaid it shall be lawful for him to tender for examination to the judge, magistrate, or other officer of her Majesty, to whom the cognizance of the crime or offence with which he is charged may appertain within the country or place where the same may be alleged to have been committed, any competent witness or witnesses, the evidence of whom he may deem material for his defence, and whom he may allege himself to be unable to produce at his trial in the said colony; and the said judge, magistrate, or other officer shall thereupon proceed in the examination and cross-examination of such witness or witnesses in the same manner as though the same had been tendered at a trial before such judge, magistrate, or other officer, and shall cause the evidence so taken to be reduced into writing, and shall transmit a copy of such evidence to the supreme court before which the trial of such person is to take place, together with a certificate under his hand and seal of the correctness of such copy; and thereupon it shall be lawful for the said supreme court, and it is hereby required, to allow so much of the evidence so taken as aforesaid as would have been admissible according to the law and practice of the said supreme court, had the said witness or witnesses been produced and examined at the trial before the said court, to be read and received as legal evidence at such trial: Provided also, that if it shall be made to appear at such trial that the laws by which the person charged with any criminal act would have been tried, had his trial taken place before a judge, magistrate, or other officer of her Majesty in the country or place in which such act may be alleged to have been committed, vary from or are inconsistent with the laws in force within such colony, in respect either of the criminality of the act charged, or of the nature or degree of the alleged crime or offence, or of the punishment to be awarded for the same, such supreme court is hereby empowered and required to admit and give effect to the laws by which such

Before any such person shall be sent to any colony for trial he may tender to the judge sending him any material evidence that he would be unable to produce on trial, which shall be taken down and transmitted to the court of the colony, and so much thereof shall be admitted as would have been admissible if the witnesses had been produced before the court.

In case the laws of the place in which the act was committed vary from those of the colony the court may give effect to them.

person would have been so tried as aforesaid, so far as but not further or otherwise than the same relate to the criminality of such act, or to the nature or degree of such crime or offence, or to the punishment thereof: Provided also, that nothing herein contained shall be construed to alter or repeal any law, statute, or usage by virtue of which any crime or offence committed out of her Majesty's dominions might, at the time of the passing of this Act, be inquired of, tried, determined, and punished within her Majesty's dominions, or any part thereof, but the same shall remain in full force and effect, any thing herein contained to the contrary notwithstanding.

Nothing herein to alter any law respecting trial within her Majesty's dominions of crimes committed out of such dominions.

V. And whereas it may likewise in certain cases be expedient that the sentences passed within such countries and places as aforesaid at the trial of crimes and offences within the same should be carried into effect within her Majesty's dominions: Be it enacted, that if any offender shall have been sentenced to suffer death or imprisonment for or in respect of any crime or offence of which such offender shall have been lawfully convicted before any judge, magistrate, or other officer of her Majesty within any such country or place as aforesaid it shall be lawful for any person having authority derived from her Majesty in that behalf, by warrant under his hand and seal, to cause such offender to be sent to any British colony which her Majesty may by any order or orders in council from time to time appoint in that behalf, in order that the sentence so passed upon such offender may be carried into effect within the same; and the magistrates, gaolers, and other officers to whom it may appertain to give effect to any sentence passed by the supreme court exercising criminal jurisdiction within such colony are hereby empowered and required to do all acts and things necessary to carry into effect the sentence so passed upon such offender, in the same manner as though the same had been passed by such supreme court.

Power to send person convicted before any judge in any such country to a British colony for execution or imprisonment.

VI. And be it enacted, that if any offender shall have been ordered or sentenced to be transported beyond the seas by any judge, magistrate, or other officer of her Majesty within any such country or place as aforesaid, or, having been adjudged to suffer death, shall have received her Majesty's most gracious pardon upon condition of transportation beyond the seas, it shall be lawful for any person having authority derived from her Majesty in that behalf to cause such offender to be sent to any place beyond seas to which convicts may at any time be lawfully transported from any part of her Majesty's dominions, and, if there shall be no convenient means of transporting such offender without bringing him to England, to cause such offender to be brought to England in order to be transported, and to be imprisoned in any place of confinement provided under the authority of any law or statute relating to the transportation of offenders convicted in England, until such offender shall be transported

Power to transport convicts, and to bring them to England for that purpose.

Provisions as to offenders convicted in Great Britain to apply to such convicts.

or shall become entitled to his liberty; and as soon as any such offender shall have arrived at the place to which he may be transported, or, if brought to England, shall have been there imprisoned as aforesaid, all the provisions, rules, regulations, authorities, powers, penalties, matters, and things concerning the safe custody, confinement, treatment, and transportation of any offender convicted in Great Britain shall extend and be construed to extend to such offender as fully and effectually, to all intents and purposes, as if such offender had been convicted and sentenced at any session of gaol delivery holden for any county in England.

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6 & 7 VICTORIA. A. D. 1843.

Chapter XCVIII.

An Act for the more effectual Suppression of the Slave Trade.

[*24th August 1843.*]

5 Geo. 4. c. 113. s. 2.

Whereas an Act was passed in the fifth year of the reign of King George the Fourth, intituled "An Act to amend and consolidate the laws relating to the abolition of the slave trade," whereby it is enacted (among other things), that it shall not be lawful (except in such special cases as are herein-after mentioned) for any persons to deal or trade in, purchase, sell, barter, or transfer, or to contract for the dealing or trading in, purchase, sale, barter, or transfer, of slaves or persons intended to be dealt with as slaves; or to carry away or remove, or to contract for the carrying away or removing, of slaves or other persons as or in order to their being dealt with as slaves; or to import or bring, or to contract for the importing or bringing, into any place whatsoever, slaves or other persons as or in order to their being dealt with as slaves; or to ship, tranship, embark, receive, detain, or confine on board, or to contract for the shipping, transhipping, embarking, receiving, detaining, or confining on board, of any ship, vessel, or boat, slaves or other persons for the purpose of their being carried away or removed as or in order to their being dealt with as slaves; or to ship, tranship, embark, receive, detain, or confine on board, or to contract for the shipping, transhipping, embarking, receiving, detaining, or confining on board, of any ship, vessel, or boat, slaves or other persons for the purpose of their being imported or brought into any place whatsoever as or in order to their being dealt with as slaves; or to fit out, man, navigate, equip, despatch, use, employ, let, or take to freight or on hire, or to contract for the fitting out, manning, navigating, equipping, despatching, using, employing, letting, or taking to freight or on hire, any ship, vessel, or

boat, in order to accomplish any of the objects or the contracts in relation to the objects which objects and contracts have herein-before been declared unlawful; or to lend or advance, or become security for the loan or advance, or to contract for the lending or advancing, or becoming security for the loan or advance, of money, goods, or effects employed or to be employed in accomplishing any of the objects or the contracts in relation to the objects which objects and contracts have herein-before been declared unlawful; or to become guarantee or security, or to contract for the becoming guarantee or security, for agents employed or to be employed in accomplishing any of the objects or the contracts in relation to the objects which objects and contracts have herein-before been declared unlawful; or in any other manner to engage or to contract to engage, directly or indirectly, therein as a partner, agent, or otherwise; or to ship, tranship, lade, receive, or put on board, or to contract for the shipping, transhipping, lading, receiving, or putting on board, of any ship, vessel, or boat, money, goods, or effects to be employed in accomplishing any of the objects or the contracts in relation to the objects which objects and contracts have herein-before been declared unlawful; or to take the charge or command, or to navigate or enter and embark on board, or to contract for the taking the charge or command or for the navigating or entering and embarking on board, of any ship, vessel, or boat, as captain, master, mate, petty officer, surgeon, supercargo, seaman, marine, or servant, or in any other capacity, knowing that such ship, vessel, or boat is actually employed, or is in the same voyage, or upon the same occasion, in respect of which they shall so take the charge or command, or navigate or enter and embark, or contract so to do as aforesaid, intended to be employed, in accomplishing any of the objects or the contracts in relation to the objects which objects and contracts have herein-before been declared unlawful; or to insure or to contract for the insuring of any slaves, or any property or other subject matter engaged or employed or intended to be engaged or employed in accomplishing any of the objects or the contracts in relation to the objects which objects and contracts have herein-before been declared unlawful: And whereas it is expedient that from and after the commencement of this Act the provisions of the said Act herein-before recited shall be deemed to apply to, and extend to render unlawful, and to prohibit, the several acts, matters, and things therein mentioned when committed by British subjects in foreign countries and settlements not belonging to the British crown, in like manner and to all intents and purposes as if the same were done or committed by such persons within the British dominions, colonies, or settlements; and it is expedient that further provisions should be made for the more effectual suppression of the slave trade, and of certain practices tending to promote and encourage it: Be it therefore The recited

Act and this Act shall apply to all British subjects wherever residing.

enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that all the provisions of the said Consolidated Slave Trade Act herein-before recited and of this present Act shall, from and after the coming into operation of this Act, be deemed to extend and apply to British subjects wheresoever residing or being, and whether within the dominions of the British crown or of any foreign country; and all the several matters and things prohibited by the said Consolidated Slave Trade Act or by this present Act, when committed by British subjects, whether within the dominions of the British crown or in any foreign country, except only as is herein-after excepted, shall be deemed and taken to be offences committed against the said several Acts respectively, and shall be dealt with and punished accordingly: Provided nevertheless, that nothing herein contained shall repeal or alter any of the provisions of the said Act.

Pawns to be deemed slaves under recited Act and 3 & 4 Will 4. c. 73. and this Act.

II. And be it declared and enacted, that all persons holden in servitude as pledges for debt, and commonly called "pawns," or by whatsoever other name they may be called or known, shall, for the purposes of the said Consolidated Slave Trade Act, and of an Act passed in the third and fourth years of the reign of King William the Fourth, intituled "An Act for the abolition of "slavery throughout the British colonies, for promoting the industry of the "manumitted slaves, and for compensating the persons hitherto entitled to the "services of such slaves," and of this present Act, be deemed and construed to be slaves or persons intended to be dealt with as slaves.

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Evidence may be taken abroad, and transmitted to the court of Queen's Bench, on indictments, &c. for offences under recited Acts and this Act.

IV. And whereas the provisions heretofore made for the hearing and determining in England of offences committed against the Acts for the abolition of the slave trade in places out of this United Kingdom have been found ineffectual, by reason of the difficulty of proving in this kingdom matters and things done elsewhere: Be it enacted, that in all cases of indictment or information laid or exhibited in the Court of Queen's Bench for misdemeanors or offences committed against the said Acts or against this present Act in any places out of the United Kingdom, and within any British colony, settlement, plantation, or territory, it shall and may be lawful for her Majesty's said court, upon motion to be made on behalf of the prosecutor or defendant, to award a writ or writs of mandamus, requiring the chief justice or other chief judicial officer in such colony, settlement, plantation, or territory, who are hereby respectively authorized and required accordingly, to hold a court, with all convenient speed, for the examination of witnesses and receiving other proofs concerning the matters charged in such indictments or informations respectively, and in the meantime to cause public notice to be given of the

holding of such courts, and summonses to be issued for the attendances of witnesses and of agents and counsel of the parties; and such examination as aforesaid shall be then and there openly and publicly taken in the said court vivâ voce, upon the respective oaths of the persons examined, and be reduced to writing, and be sent to her Majesty in her Court of Queen's Bench (in manner set forth and prescribed in an Act passed in the thirteenth year of George the Third, chapter sixty-three, intituled "An Act for establishing "certain regulations for the better management of the affairs of the East "India Company as well in India as in Europe"); and such depositions, being duly taken and returned according to the true intent and meaning of this Act, shall be allowed and read, and shall be deemed as good and competent evidence as if such witnesses had been present and sworn and examined vivâ voce at any trial for such misdemeanors and offences as aforesaid in her Majesty's said Court of Queen's Bench, any law or usage to the contrary thereof notwithstanding.

13 Geo. 3, c. 63.

V. Provided always, and be it enacted, that in all the cases in which the holding or taking of slaves shall not be prohibited by this or any other Act of Parliament, it shall be lawful to sell or transfer such slaves, any thing in this or any other Act contained notwithstanding.

In cases not prohibited by Parliament slaves may be sold or transferred.

VI. Provided always, and be it enacted, that nothing in this Act contained shall be taken to subject to any forfeiture, punishment, or penalty any person for transferring or receiving any share in any joint stock company established before the passing of this Act in respect of any slave or slaves in the possession of such company before such time, or for selling any slave or slaves which were lawfully in his possession at the time of passing this Act, or which such person shall or may have become possessed of or entitled unto bonâ fide prior to such sale, by inheritance, devise, bequest, marriage, or otherwise by operation of law.

Act not to extend to persons selling shares in existing companies now in possession of slaves, or to persons selling shares now in their possession and acquired by inheritance, &c.

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7 & 8 VICTORIA. A. D. 1844.

Chapter XII.

An Act to amend the Law relating to International Copyright. [*10th May 1844.*]

Whereas by an Act passed in the session of Parliament held in the first and second years of the reign of her present Majesty, intituled "An Act "for securing to authors in certain cases the benefit of international copy-"right" (and which Act is herein-after, for the sake of perspicuity, designated as "the International Copyright Act"), her Majesty was empowered by order in council to direct that the authors of books which should after a future time

1 & 2 Vict. c. 59.

to be specified in such order in council, be published in any foreign country, to be specified in such order in council, and their executors, administrators, and assigns, should have the sole liberty of printing and reprinting such books within the British dominions for such term as her Majesty should by such order in council direct, not exceeding the term which authors, being British subjects, were then, (that is to say) at the time of passing the said Act, entitled to in respect of books first published in the United Kingdom; and the said Act contains divers enactments securing to authors and their representatives the copyright in the books to which any such order in council should extend: And whereas an Act was passed in the session of Parliament held in the fifth and sixth years of the reign of her present Majesty, intituled "An Act to amend the law of copyright" (and which Act is herein-after, for the sake of perspicuity, designated as "the Copyright Amendment Act"), repealing various Acts therein mentioned relating to the copyright of printed books, and extending, defining, and securing to authors and their representatives the copyright of books: And whereas an Act was passed in the session of Parliament held in the third and fourth years of the reign of his late Majesty King William the Fourth, intituled "An Act to amend the laws relating to dramatic literary property" (and which Act is herein-after, for the sake of perspicuity, designated as "the Dramatic Literary Property Act"), whereby the sole liberty of representing or causing to be represented any dramatic piece in any place of dramatic entertainment in any part of the British dominions, which should be composed and not printed or published by the author thereof or his assignee, was secured to such author or his assignee; and by the said Act it was enacted, that the author of any such production which should thereafter be printed and published, or his assignee, should have the like sole liberty of representation until the end of twenty-eight years from the first publication thereof: And whereas by the said Copyright Amendment Act the provisions of the said Dramatic Literary Property Act and of the said Copyright Amendment Act were made applicable to musical compositions; and it was thereby also enacted, that the sole liberty of representing or performing, or causing or permitting to be represented or performed, in any part of the British dominions, any dramatic piece or musical composition, should endure and be the property of the author thereof and his assigns for the term in the said Copyright Amendment Act provided for the duration of the copyright in books, and that the provisions therein enacted in respect of the property of such copyright should apply to the liberty of representing or performing any dramatic piece or musical composition: And whereas under or by virtue of the four several Acts next herein-after mentioned; (that is to say) an Act passed in the eighth year of the reign of his late Majesty King George the

5 & 6 Vict. c. 45.

3 & 4 Will c. 15.

Second, intituled "An Act for the encouragement of the arts of designing, "engraving, and etching historical and other prints, by vesting the properties "thereof in the inventors or engravers during the time therein mentioned;" an Act passed in the seventh year of his late Majesty King George the Third, intituled "An Act to amend and render more effectual an Act made in the "eighth year of the reign of King George the Second, for encouragement of "the arts of designing, engraving, and etching historical and other prints; "and for vesting in and securing to Jane Hogarth, widow, the property in "certain prints;" an Act passed in the seventeenth year of the reign of his late Majesty King George the Third, intituled "An Act for more effectually "securing the property of prints to inventors and engravers, by enabling them "to sue for and recover penalties in certain cases;" and an Act passed in the session of Parliament held in the sixth and seventh years of the reign of his late Majesty King William the Fourth, intituled "An Act to extend the "protection of copyright in prints and engravings to Ireland" (and which said four several Acts are herein-after, for the sake of perspicuity, designated as the Engraving Copyright Acts,) every person who invents or designs, engraves, etches, or works in mezzotinto or chiaro-oscuro, or from his own work, design, or invention causes or procures to be designed, engraved, etched, or worked in mezzotinto or chiaro-oscuro, any historical print or prints, or any print or prints of any portrait, conversation, landscape, or architecture, map, chart, or plan, or any other print or prints whatsoever, and every person who engraves, etches, or works in mezzotinto or chiaro-oscuro, or causes to be engraved, etched, or worked, any print taken from any picture, drawing, model, or sculpture, either ancient or modern, notwithstanding such print shall not have been graven or drawn from the original design of such graver, etcher, or draftsman, is entitled to the copyright of such print for the term of twenty-eight years from the first publishing thereof; and by the said several Engraving Copyright Acts it is provided that the name of the proprietor shall be truly engraved on each plate, and printed on every such print, and remedies are provided for the infringement of such copyright: And whereas under and by virtue of an Act passed in the thirty-eighth year of the reign of his late Majesty King George the Third, intituled "An Act for encouraging the art of "making new models and casts of busts and other things therein mentioned," and of an Act passed in the fifty-fourth year of the reign of his late Majesty King George the Third, intituled "An Act to amend and render more effectual "an Act of his present Majesty, for encouraging the art of making new "models and casts of busts and other things therein mentioned, and for "giving further encouragement to such arts" (and which said Acts are, for the sake of perspicuity, herein-after designated as the Sculpture Copyright

3 Geo. 2. c. 13.

7 Geo. 3. c. 38.

17 Geo. 3. c. 57.

6 & 7 Will. 4. c. 59.

38 Geo. 3. c. 71.

54 Geo. 3. c. 56.

Acts,) every person who makes or causes to be made any new and original sculpture, or model or copy or cast of the human figure, any bust or part of the human figure clothed in drapery or otherwise, any animal or part of any animal combined with the human figure or otherwise, any subject, being matter of invention in sculpture, any alto or basso relievo, representing any of the matters aforesaid, or any cast from nature of the human figure or part thereof, or of any animal or part thereof, or of any such subject representing any of the matters aforesaid, whether separate or combined, is entitled to the copyright in such new and original sculpture, model, copy, and cast, for fourteen years from first putting forth and publishing the same, and for an additional period of fourteen years in case the original maker is living at the end of the first period; and by the said Acts it is provided that the name of the proprietor, with the date of the publication thereof, is to be put on all such sculptures, models, copies, and casts, and remedies are provided for the infringement of such copyright: And whereas the powers vested in her Majesty by the said International Copyright Act are insufficient to enable her Majesty to confer upon authors of books first published in foreign countries copyright of the like duration, and with the like remedies for the infringement thereof, which are conferred and provided by the said Copyright Amendment Act with respect to authors of books first published in the British dominions; and the said International Copyright Act does not empower her Majesty to confer any exclusive right of representing or performing dramatic pieces or musical compositions first published in foreign countries upon the authors thereof, nor to extend the privilege of copyright to prints and sculpture first published abroad; and it is expedient to vest increased powers in her Majesty in this respect, and for that purpose to repeal the said International Copyright Act, and to give such other powers to her Majesty, and to make such further provisions, as are herein-after contained: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that the said recited Act herein designated as the International Copyright Act shall be and the same is hereby repealed. [Repealed, Stat. Law Rev. Act, 1874 (No. 2).]

Repeal of international Copyright Act, 1 & 2 Vict. c. 59.

Her Majesty, by order in council, may direct that authors, &c. of works first published in foreign countries shall have copyright therein within her Majesty's dominions for any term

II. And be it enacted, that it shall be lawful for her Majesty, by any order of her Majesty in council, to direct that, as respects all or any particular class or classes of the following works, (namely,) books, prints, articles of sculpture, and other works of art, to be defined in such order, which shall after a future time, to be specified in such order, be first published in any foreign country to be named in such order, the authors, inventors, designers, engravers, and makers thereof respectively, their respective executors, administrators, and assigns, shall have the privilege of copyright therein during such

period or respective periods as shall be defined in such order, not exceeding, however, as to any of the above-mentioned works, the term of copyright which authors, inventors, designers, engravers, and makers of the like works respectively first published in the United Kingdom may be then entitled to under the herein-before recited Acts respectively, or under any Acts which may hereafter be passed in that behalf.

not exceeding that for which authors, &c. of like works first published in the United Kingdom would be entitled to copyright.

III. And be it enacted, that in case any such order shall apply to books, all and singular the enactments of the said Copyright Amendment Act, and of any other Act for the time being in force with relation to the copyright in books first published in this country, shall, from and after the time so to be specified in that behalf in such order, and subject to such limitation as to the duration of the copyright as shall be therein contained, apply to and be in force in respect of the books to which such order shall extend, and which shall have been registered as herein-after is provided, in such and the same manner as if such books were first published in the United Kingdom, save and except such of the said enactments, or such parts thereof, as shall be excepted in such order, and save and except such of the said enactments as relate to the delivery of copies of books at the British Museum, and to or for the use of the other libraries mentioned in the said Copyright Amendment Act.

If the order applies to books, the copyright law as to books first published in this country shall apply to the books to which the order relates, if registered, with certain exceptions.

IV. And be it enacted, that in case any such order shall apply to prints, articles of sculpture, or to any such other works of art as aforesaid, all and singular the enactments of the said Engraving Copyright Acts and the said Sculpture Copyright Acts, or of any other Act for the time being in force with relation to the copyright in prints or articles of sculpture first published in this country, and of any Act for the time being in force with relation to the copyright in any similar works of art first published in this country, shall, from and after the time so to be specified in that behalf in such order, and subject to such limitation as to the duration of the copyright as shall be therein contained respectively, apply to and be in force in respect of the prints, articles of sculpture, and other works of art to which such order shall extend, and which shall have been registered as herein-after is provided, in such and the same manner as if such articles and other works of art were first published in the United Kingdom, save and except such of the said enactments or such parts thereof as shall be excepted in such order.

If the order applies to prints, sculptures, &c the copyright law as to prints or sculptures first published in this country shall apply to the prints, sculptures, &c. to which such order relates, if registered.

V. And be it enacted, that it shall be lawful for her Majesty, by any order of her Majesty in council, to direct that the authors of dramatic pieces and musical compositions which shall after a future time, to be specified in such order, be first publicly represented or performed in any foreign country to be named in such order, shall have the sole liberty of representing or performing in any part of the British dominions such dramatic pieces or musical com-

Her Majesty may, by order in council, direct that authors and composers of dramatic pieces and musical com-

positions first publicly represented and performed in foreign countries shall have exclusive rights of representation in the British dominions.

Enactments relating to similar pieces first publicly represented in this country shall apply to such pieces, if registered.

positions during such period as shall be defined in such order, not exceeding the period during which authors of dramatic pieces and musical compositions first publicly represented or performed in the United Kingdom may for the time be entitled by law to the sole liberty of representing and performing the same; and from and after the time so specified in any such last-mentioned order the enactments of the said Dramatic Literary Property Act and of the said Copyright Amendment Act, and of any other Act for the time being in force with relation to the liberty of publicly representing and performing dramatic pieces or musical compositions, shall, subject to such limitation as to the duration of the right conferred by any such order as shall be therein contained, apply to and be in force in respect of the dramatic pieces and musical compositions to which such order shall extend, and which shall have been registered as herein-after is provided, in such and the same manner as if such dramatic pieces and musical compositions had been first publicly represented and performed in the British dominions, save and except such of the said enactments or such parts thereof as shall be excepted in such order.

Particulars to be observed as to registry and to delivery of copies;

VI. Provided always, and be it enacted, that no author of any book, dramatic piece, or musical composition, or his executors, administrators, or assigns, and no inventor, designer, or engraver of any print, or maker of any article of sculpture, or other work of art, his executors, administrators, or assigns, shall be entitled to the benefit of this Act, or of any order in council to be issued in pursuance thereof, unless, within a time or times to be in that behalf prescribed in each such order in council, such book, dramatic piece, musical composition, print, article of sculpture, or other work of art, shall have been so registered and such copy thereof shall have been so delivered as herein-after is mentioned; (that is to say,) as regards such book, and also such dramatic piece or musical composition, (in the event of the same having been printed,) the title to the copy thereof, the name and place of abode of the author or composer thereof, the name and place of abode of the proprietor of the copyright thereof, the time and place of the first publication, representation, or performance thereof, as the case may be, in the foreign country named in the order in council under which the benefits of this Act shall be claimed, shall be entered in the register book of the Company of Stationers in London, and one printed copy of the whole of such book, and of such dramatic piece or musical composition, in the event of the same having been printed, and of every volume thereof, upon the best paper upon which the largest number or impression of the book, dramatic piece, or musical composition shall have been printed for sale, together with all maps and prints relating thereto, shall be delivered to the officer of the Company of Stationers at the hall of the said company; and as regards dramatic pieces and musical compositions in

as to books and printed dramatic pieces or musical compositions;

as to dramatic

manuscript, the title to the same, the name and place of abode of the author or composer thereof, the name and place of abode of the proprietor of the right of representing or performing the same, and the time and place of the first representation or performance thereof in the country named in the order in council under which the benefit of the Act shall be claimed, shall be entered in the said register book of the said Company of Stationers in London; and as regards prints, the title thereof, the name and place of abode of the inventor, designer, or engraver thereof, the name of the proprietor of the copyright therein, and the time and place of the first publication thereof in the foreign country named in the order in council under which the benefits of the Act shall be claimed, shall be entered in the said register book of the said Company of Stationers in London, and a copy of such print, upon the best paper upon which the largest number or impressions of the print shall have been printed for sale, shall be delivered to the officer of the Company of Stationers at the hall of the said company; and as regards any such article of sculpture, or any such other work of art as aforesaid, a descriptive title thereof, the name and place of abode of the maker thereof, the name of the proprietor of the copyright therein, and the time and place of its first publication in the foreign country named in the order in council under which the benefit of this Act shall be claimed, shall be entered in the said register book of the said Company of Stationers in London; and the officer of the said Company of Stationers receiving such copies so to be delivered as aforesaid shall give a receipt in writing for the same, and such delivery shall to all intents and purposes be a sufficient delivery under the provisions of this Act.

pieces and musical compositions in manuscript;

as to prints,

as to sculptures, &c.

VII. Provided always, and be it enacted, that if a book be published anonymously it shall be sufficient to insert in the entry thereof in such register book the name and place of abode of the first publisher thereof, instead of the name and place of abode of the author thereof, together with a declaration that such entry is made either on behalf of the author or on behalf of such first publisher, as the case may require.

In case of books published anonymously, it shall be sufficient to register the name, &c. of the publisher.

VIII. And be it enacted, that the several enactments in the said Copyright Amendment Act contained with relation to keeping the said register book, and the inspection thereof, the searches therein, and the delivery of certified and stamped copies thereof, the reception of such copies in evidence, the making of false entries in the said book, and the production in evidence of papers falsely purporting to be copies of entries in the said book, the applications to the courts and judges by persons aggrieved by entries in the said book, and the expunging and varying such entries, shall apply to the books, dramatic pieces, and musical compositions, prints, articles of sculpture, and other works of art, to which any order in council issued in pursuance of this Act shall extend,

The provisions of the Copyright Amendment Act 5 & 6 Vict. c. 45, as regards entries in the register book of the Company of Stationers, searches, &c. to apply to books, &c. registered under this Act.

and to the entries and assignments of copyright and proprietorship therein, in such and the same manner as if such enactments were here expressly enacted in relation thereto, save and except that the forms of entry prescribed by the said Copyright Amendment Act may be varied to meet the circumstances of the case, and that the sum to be demanded by the officer of the said Company of Stationers for making any entry required by this Act shall be one shilling only.

As to expunging or varying entry grounded on wrongful first publication.

IX. And be it enacted, that every entry made in pursuance of this Act of a first publication shall be primâ facie proof of a rightful first publication; but if there be a wrongful first publication, and any party have availed himself thereof to obtain an entry of a spurious work, no order for expunging or varying such entry shall be made unless it be proved to the satisfaction of the court or of the judge taking cognizance of the application for expunging or varying such entry, first, with respect to a wrongful publication in a country to which the author or first publisher does not belong, and in regard to which there does not subsist with this country any treaty of international copyright, that the party making the application was the author or first publisher, as the case requires; second, with respect to a wrongful first publication either in the country where a rightful first publication has taken place, or in regard to which there subsists with this country a treaty of international copyright, that a court of competent jurisdiction in any such country where such wrongful first publication has taken place has given judgment in favour of the right of the party claiming to be the author or first publisher.

Copies of books wherein copyright is subsisting under this Act printed in foreign countries other than those wherein the books were first published shall not be imported, except with consent of registered proprietors, and shall be subject to laws of customs as to prohibited goods.

X. And be it enacted, that all copies of books wherein there shall be any subsisting copyright under or by virtue of this Act, or of any order in council made in pursuance thereof, printed or reprinted in any foreign country except that in which such books were first published, shall be and the same are hereby absolutely prohibited to be imported into any part of the British dominions, except by or with the consent of the registered proprietor of the copyright thereof, or his agent authorized in writing, and if imported contrary to this prohibition the same and the importers thereof shall be subject to the enactments in force relating to goods prohibited to be imported by any Act relating to the customs; and as respects any such copies so prohibited to be imported, and also as respects any copies unlawfully printed in any place whatsoever of any books wherein there shall be any such subsisting copyright as aforesaid, any person who shall in any part of the British dominions import such prohibited or unlawfully printed copies, or who, knowing such copies to be so unlawfully imported or unlawfully printed, shall sell, publish, or expose to sale or hire, or shall cause to be sold, published, or exposed to sale or hire, or have in his possession for sale or hire, any such copies so unlawfully

imported or unlawfully printed, such offender shall be liable to a special action on the case at the suit of the proprietor of such copyright, to be brought and prosecuted in the same courts and in the same manner, and with the like restrictions upon the proceedings of the defendant, as are respectively prescribed in the said Copyright Amendment Act with relation to actions thereby authorized to be brought by proprietors of copyright against persons importing or selling books unlawfully printed in the British dominions.

Liability of persons selling such copies or any copies unlawfully printed.

XI. And be it enacted, that the said officer of the said Company of Stationers shall receive at the hall of the said company every book, volume, or print so to be delivered as aforesaid, and within one calender month after receiving such book, volume, or print shall deposit the same in the library of the British Museum.

Officer of Stationers Company to deposit books, &c. delivered in the British Museum.

XII. Provided always, and be it enacted, that it shall not be requisite to deliver to the said officer of the said Stationers Company any printed copy of the second or of any subsequent edition of any book or books so delivered as aforesaid, unless the same shall contain additions or alterations.

As to depositing copies of second or subsequent editions.

XIII. And be it enacted, that the respective terms to be specified by such orders in council respectively for the continuance of the privilege to be granted in respect of works to be first published in foreign countries may be different for works first published in different foreign countries and for different classes of such works; and that the times to be prescribed for the entries to be made in the register book of the Stationers Company, and for the deliveries of the books and other articles to the said officer of the Stationers Company, as hereinbefore is mentioned, may be different for different foreign countries and for different classes of books or other articles.

Different periods may be specified for continuance of privilege for different foreign countries and classes of works, and times for entries, &c. may be different.

XIV. Provided always, and be it enacted, that no such order in council shall have any effect unless it shall be therein stated, as the ground for issuing the same, that due protection has been secured by the foreign power so named in such order in council for the benefit of parties interested in works first published in the dominions of her Majesty similar to those comprised in such order.

No order to take effect unless it states that reciprocal protection is secured for parties interested in works first published in British dominions.

XV. And be it enacted, that every order in council to be made under the authority of this Act shall as soon as may be after the making thereof by her Majesty in council be published in the London Gazette, and from the time of such publication shall have the same effect as if every part thereof were included in this Act.

Orders to be published in Gazette, and to have effect as if included in this Act.

XVI. And be it enacted, that a copy of every order of her Majesty in council made under this Act shall be laid before both Houses of Parliament within six weeks after issuing the same, if Parliament be then sitting, and if

Orders to be laid before Parliament.

not, then within six weeks after the commencement of the then next session of Parliament.

Orders may be revoked.

XVII. And be it enacted, that it shall be lawful for her Majesty by an order in council from time to time to revoke or alter any order in council previously made under the authority of this Act, but nevertheless without prejudice to any rights acquired previously to such revocation or alteration.

Privilege not to extend to translations.

[XVIII.[a]] Provided always, and be it enacted, that nothing in this Act contained shall be construed to prevent the printing, publication, or sale of any translation of any book the author whereof and his assigns may be entitled to the benefit of this Act.

Authors, &c. of works first published in foreign countries not entitled to copyright except under this Act.

XIX. And be it enacted, that neither the author of any book, nor the author or composer of any dramatic piece or musical composition, nor the inventor, designer, or engraver of any print, nor the maker of any article of sculpture, or of such other work of art as aforesaid, which shall after the passing of this Act be first published out of her Majesty's dominions, shall have any copyright therein respectively, or any exclusive right to the public representation or performance thereof, otherwise than such (if any) as he may become entitled to under this Act.

Interpretation clause.

XX. And be it enacted, that in the construction of this Act the word "book" shall be construed to include "volume," "pamphlet," "sheet of letter-press," "sheet of music," "map," "chart," or "plan"; and the expression "articles of sculpture" shall mean all such sculptures, models, copies, and casts as are described in the said Sculpture Copyright Acts, and in respect of which the privileges of copyright are thereby conferred; and the words "printing" and "re-printing" shall include engraving and any other method of multiplying copies; and the expression "her Majesty" shall include the heirs and successors of her Majesty; and the expressions "order of her Majesty in council," "order in council," and "order," shall respectively mean order of her Majesty acting by and with the advice of her Majesty's most honourable privy council; and the expression "officer of the Company of Stationers" shall mean the officer appointed by the said Company of Stationers for the purposes of the said Copyright Amendment Act; and in describing any persons or things any word importing the plural number shall mean also one person or thing, and any word importing the singular number shall include several persons or things, and any word importing the masculine shall include also the feminine gender; unless in any of such cases there shall be something in the subject or context repugnant to such construction.

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[[a] Section 18 is repealed, 15 & 16 Vict. c. 12. s. 1., so far as the same is inconsistent with the provisions thereinafter contained.]

7 & 8 VICTORIA. A.D. 1844.

CHAPTER XVIII.

An Act to remove Doubts as to the Power of appointing, convening, and confirming the Sentences of Courts-martial in the East Indies.

[*6th June 1844.*]

WHEREAS doubts have arisen as to the proper authority by which, in certain cases, courts-martial may be appointed and convened, and the sentences thereof confirmed, in the East Indies and elsewhere; and it is important to the maintenance of good order and military discipline that such doubts should be removed: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that, any law, custom, usage, statute, regulations, articles of war, or warrant to the contrary notwithstanding, any general or other officer who may from time to time have power to appoint or convene general or district or other courts-martial for the trial of offences committed by any of the officers or soldiers in the service of her Majesty, or by any of the officers, soldiers, or followers in the service of the East India Company, not being natives of the East Indies or other places within the limits of the said company's charter, or by any of the officers, soldiers, or followers in the service of the said company, being natives of the East Indies or other places within the limits aforesaid, shall, without any further or other authority or warrant, have power and authority to appoint or convene general or district or other courts-martial (as the case may be) to be holden for the trial of offences committed by any officer, soldier, or follower in any of the said services who may be under the actual command or who may be or come within the local limits of the command of such general or other officer, although the power of such officer as to appointing or convening courts-martial might but for this Act extend to one or more of the said services only, or to some only of the forces belonging to any one or more of such services; and that in like manner any general or other officer who may from time to time have power to confirm sentences of general or district or other courts-martial for the trial of offences committed by any of the officers or soldiers in the service of her Majesty, or by any of the officers, soldiers, or followers in the service of the East India Company, not being natives as aforesaid, or by any of the officers, soldiers, or followers in the service of the East India Company, being such natives as aforesaid, shall, without any further or other authority or warrant, have power and authority to confirm sentences of general or district or other courts-martial (as the case may be) held

Any officer who may have power to convene or confirm sentences of courts-martial for trial of offences either committed by the Queen's troops, or by the East India Company's troops, not being natives of the East Indies or places within the Company's charter, or by Company's troops, being natives of such places, may convene or confirm sentences of courts-martial for trial of offences committed by any troops under his actual command or within the local limits of his command, although but for this Act his powers would not have extended to such troops.

for the trial of any officer or soldier or follower in any of the said services who may be under the actual command or who may be or come within the local limits of the command of such general or other officer, although the power of such officer, as to confirming the sentences of courts-martial, might but for this Act extend to one or more of the said services only, or to some only of the forces belonging to any one or more of such services.

Such powers may be exercised wheresoever the offenders may be serving or the offence may have been committed.

II. And be it enacted, that the said several powers may be exercised as aforesaid to whichsoever of the presidencies of Fort William, Fort Saint George, or Bombay the offender may belong, or whether the general or other officer appointing or convening the court-martial, or confirming the sentence, may be the officer commanding in chief in India, or at the presidency to which the offender may belong, or at any other presidency, or may hold his command or his power to appoint, convene, or confirm the sentences of courts-martial from or under the officer commanding in chief in India, or at the presidency to which the offender may belong, or at any other presidency, or may hold such command or power from or under any other authority whatsoever, or whether the offence shall have been committed before or after the officer appointing or convening the court or confirming the sentence shall have taken the command, or before or after the offender shall have been under the command of such officer, or before or after the offender shall have been or shall have come within the local limits of the command of such officer, or wheresoever, whether within the presidency to which the offender may belong, or within any other presidency, possessions, or territories under the government of the said company, or on the high seas, or elsewhere, the offender may be serving, or the offence shall have been committed, or the court-martial shall be appointed, convened, or held.

Her Majesty may authorize commander-in-chief and general commanding in each presidency to delegate power of confirming sentences of general courts-martial.

III. And be it enacted, that, any articles of war or usage to the contrary notwithstanding, her Majesty may grant warrants under her sign manual severally empowering the officer commanding in chief the forces in India, and the general or other officer commanding the forces at each or any of the presidencies of Fort William, Fort Saint George, and Bombay for the time being, to authorize any general or other officer not below the rank of a field officer, having the commaud of any body of the troops of her Majesty or of the said company serving in the possessions or territories which are or may be under the government of the said company or elsewhere, to confirm the sentences of general courts-martial which shall be holden for the trial of offences committed by any officer, soldier, or follower of or belonging to such troops; and the officer commanding in chief the forces in India, or the general or other officer commanding the forces at any of the said presidencies, being so empowered, may authorize any such general or other officer to confirm such classes of sentences only, or sentences passed for such classes of offences only, or on such

classes of persons only, as he may think fit, reserving to himself the power of confirming sentences in all such cases as such general or other officer may not be authorized to confirm, or may think fit to send for the decision of such officer commanding in chief the forces in India, or of such officer commanding the forces at one of the said presidencies.

In what cases confirmation of officers commanding in presidency to which offender belongs may be dispensed with.

IV. And be it enacted, that when, by any Act of Parliament or articles of war, the sentence of a court-martial is not to be carried into execution until confirmed by the general or other officer commanding in chief at the presidency in the territories subordinate to which the offender shall have been tried, with the concurrence of the governor general in council, or governor in council, or governor of such presidency, it shall not be necessary, in any such case, that a sentence so confirmed, with such concurrence, should, in addition, be reported to or approved or confirmed by the general or other officer commanding in chief the forces of the presidency to which the offender may belong; and the officer confirming the sentence, with such concurrence, and in all other cases the officer authorized under the provisions in this Act contained to confirm the sentence of any court-martial, shall have power to cause the same to be put into execution, or to suspend, mitigate, or remit the same.

Confirmation required of sentences of death, &c. on commissioned officers.

V. And be it enacted, that nothing in this Act contained shall empower any person not otherwise duly authorized in that behalf to confirm any sentence of death, transportation, or cashiering on any commissioned officer employed upon her Majesty's staff, or serving in any of her Majesty's regular regiments; and that nothing in this Act contained shall empower any officer, other than those herein-after mentioned, to confirm the sentence of death, transportation, or cashiering on a commissioned officer of the East India Company's service; (that is to say,) the general or other officer commanding in chief at the presidency within which, or in territories subordinate to which, the offender shall have been tried, or the general commanding in chief the army to which the division, brigade, or party in which the offender may be serving shall belong or be attached.

This Act not to affect laws, &c. now in force save as expressly provided.

VI. Provided always, and be it enacted, that, save as herein-before is expressly provided, this Act shall not alter or affect the laws, statutes, regulations, articles of war, usages, or customs which now are or hereafter may be in force with respect to her Majesty's forces or the forces of the said East India Company, whether natives or not of the East Indies or other places within the limits of the said company's charter: Provided also, that this Act shall not be construed as declaring or interpreting the extent of her Majesty's royal prerogative, or the meaning of any former Act or of any article of war.

This Act to extend only to persons

VII. And be it enacted, that the provisions of this Act shall apply to all such persons as may from time to time be liable to martial law under the

subject to martial law and being within the limits of the company's charter.

provisions of any Act of Parliament or articles of war, and who may from time to time be serving or may be or come within the limits of the charter of the East India Company, construing the same as extending to all places and seas eastward of the Cape of Good Hope to the Straits of Magellan.

This Act shall continue as to her Majesty's forces only during continuance of Mutiny Act.

VIII. And be it enacted, that, so far as regards officers and soldiers in her Majesty's service, this Act shall continue in force so long only as there may be in force some Act for punishing mutiny and desertion, and for the better payment of the army and their quarters.

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7 & 8 VICTORIA. A. D. 1844.

Chapter LXIX.

An Act for amending an Act passed in the Fourth Year of the Reign of His late Majesty, intituled "An Act for the better Administration of Justice in His Majesty's Privy Council"; and to extend its Jurisdiction and Powers.

[*6th August 1844.*]

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Judicial committee may on appeals require copies of notes of evidence taken, and reasons for judgments given, in the courts of any colony, &c.

X. And be it enacted, that it shall be lawful for the said judicial committee to make an order or orders on any court in any colony or foreign settlement, or foreign dominion of the crown, requiring the judge or judges of such court to transmit to the clerk of the privy council a copy of the notes of evidence in any cause tried before such court, and of the reasons given by the judge or judges for the judgment pronounced in any case brought by appeal or by writ of error before the said judicial committee.

Judicial committee may make rules, to be binding upon such courts, requiring judges notes of evidence, reasons for judgments, &c.

XI. And be it enacted, that it shall and may be lawful for the said judicial committee to make any general rule or regulation, to be binding upon all courts in the colonies and other foreign settlements of the crown, requiring the judges notes of the evidence taken before such court on any cause appealed, and of the reasons given by the judges of such court, or by any of them, for or against the judgment pronounced by such court; which notes of evidence and reasons shall by such court be transmitted to the clerk of the privy council within one calendar month next after the leave given by such court to prosecute any appeal to her Majesty in council; and such order of the said committee shall be binding upon all judges of such courts in the colonies or foreign settlements of the crown.

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8 & 9 VICTORIA. A.D. 1845.

Chapter XXX.

An Act to amend an Act passed in the Third and Fourth Years of the Reign of His late Majesty King William the Fourth, intituled "An Act for the better Administration of Justice in His Majesty's Privy Council."

[*30th June 1845.*]

Whereas by an Act passed in the session held in the third and fourth years of the reign of his late Majesty King William the Fourth, intituled, "An Act for the better administration of justice in his Majesty's privy council," after reciting that various appeals to his Majesty in council from the courts of Suddur Dewanny Adawlut at the several presidencies of Calcutta, Madras, and Bombay, in the East Indies, had been admitted by the said courts, and the transcripts of the proceedings in appeal had been from time to time transmitted under the seal of the said courts through the East India Company, then called the United Company of Merchants of England trading to the East Indies, to the office of his Majesty's said privy council, but that the suitors in the causes so appealed had not taken the necessary measures to bring on the same to a hearing, it was enacted that it should be lawful for his Majesty in council to give such directions to the said company and other persons, for the purpose of bringing to a hearing before the judicial committee of the privy council the several cases appealed or thereafter to be appealed to his Majesty in council from the several courts of Suddur Dewanny Adawlut in the East Indies, and for appointing agents and counsel for the different parties in such appeals, and to make such orders for the security and payment of the costs thereof as his said Majesty in council should think fit, and thereupon such appeals should be heard and reported on to his Majesty in council, and should be by his Majesty in council determined, in the same manner, and the judgments, orders, and decrees of his Majesty in council thereon should be of the same force and effect, as if the same had been brought to a hearing by the direction of the parties appealing, in the usual course of proceeding: Provided always, that such last-mentioned powers should not extend to any appeals from the said courts of Sudder Dewanny Adawlut other than appeals in which no proceedings then had been or should thereafter be taken in England on either side for a period of two years subsequent to the admission of the appeal by such court of Suddur Dewanny Adawlut: And whereas by certain orders in council made under certain powers contained in the said Act provision is made for registering in the council office the arrival in this country of the transcripts of the proceedings in appeals from the said courts: And whereas it is considered

3 & 4 Will. 4. c. 41. s. 22.

Recited provisions of 8 & 4 Will. 4. c. 41. not to apply to appeals admitted after 1st January 1846.

advisable that the said Act should be amended in manner herein-after mentioned: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that the herein-before recited provisions of the said Act shall not apply to the case of any appeal which shall be admitted by any of the said courts of Suddur Dewanny Adawlut after the first day of January one thousand eight hundred and forty-six. [Repealed, Stat. Law Rev. Act, 1875.]

Appeals to her Majesty in council from courts of Suddur Dewanny Adawlut to be considered as abandoned, &c. unless proceedings are taken in England within two years after registration of the arrival of the transcript, &c.

II. And be it enacted, that any appeal to be admitted by any of the said courts of Suddur Dewanny Adawlut after the said first day of January one thousand eight hundred and forty-six [Repealed, Stat. Law Rev. Act, 1875] shall be considered and be held to be abandoned and withdrawn by consent of the parties thereto, unless some proceedings shall be taken in England in the same by one or more of the parties thereto within two years after registration at the council office of the arrival of the transcript; and any such appeal as aforesaid shall be held to be abandoned and withdrawn in like manner under any other circumstances which her Majesty in council may from time to time by any orders or rules in that behalf direct to be taken and considered as a withdrawal thereof; and the East India Company are hereby required from time to time to ascertain and certify to the proper courts in the East Indies all appeals which may from time to time become abandoned and dropped under the provisions of this clause.

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10 & 11 VICTORIA. A.D. 1847.

Chapter XXXVII.

An Act for limiting the Time of Service in the Army.

[*21st June 1847.*]

Whereas it is expedient to amend the system of enlistment now in use in her Majesty's land forces: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that after the passing of this Act no person shall be enlisted to serve her Majesty, or in the forces of the *East India* Company, as a soldier for a longer term than ten years in the infantry, or twelve years in the cavalry or artillery or other ordnance corps, to be reckoned from the day on which the recruit shall have been attested, if he shall have stated himself to be then of the age of eighteen years, or if not, then from the day on which he will complete the age of eighteen years, to be reckoned according to the age stated in his attestation.

After passing of this Act the period for enlistment for a soldier limited.

II. And be it enacted, that such of the questions relative to enlistment as are contained in the schedule of an Act passed in the present year of her Majesty's reign, intituled "An Act for punishing mutiny and desertion, and for the better payment of the army and their quarters," as relates to the enlisting and attesting of soldiers, shall be repealed; and that in all cases of enlistment to serve her Majesty or the *East India* Company the question directed to be put on the attestation of recruits, as to their willingness to serve, shall be in the form contained in schedule (A) hereto annexed.

Repealing certain questions in schedule to 10 & 11 Vict. c. 12., and substituting others

III. And be it enacted, that any soldier, at any time during the last six months of the term of limited service for which he shall have first engaged, or after the completion of such term, may, if approved by his commanding officer or other competent military authority as a fit person to continue in her Majesty's service, or in the service of the *East India* Company, as a soldier, be re-engaged to serve for the further term of eleven years in the infantry, and twelve years in the cavalry or artillery or other ordnance corps, upon making a declaration in the form given in the schedule marked (B.) and annexed to this Act before any one of her Majesty's justices of the peace in *Great Britain* or *Ireland*, or, if not in *Great Britain* or *Ireland*, before any person duly appointed by her Majesty by any warrant signed by the secretary at war in that behalf, to enlist and attest out of *Great Britain* and *Ireland* any soldiers or persons desirous of enlisting or re-enlisting into her Majesty's service.

Soldiers, at any time during the last six months, or on completion of term of limited service, may be re-engaged.

IV. Provided also, and be it enacted, that any soldier who shall be ordered on foreign service, and who is within three years of the expiration of his first engagement, shall be at liberty, with the approbation of his commanding officer, to re-engage, before he embarks for such foreign service, for such period as shall complete a total service of twenty-one years in the infantry, or twenty-four years in the cavalry or artillery, according to the form given in schedule (B.) and annexed to this Act.

As to re-engagement of soldiers ordered on foreign service, &c.

V. Provided always, and be it enacted, that if either the first or second term of limited service for which any soldier shall have so engaged shall expire while he is serving on any foreign station, the said first or second term of limited service may be prolonged for such further time, not exceeding two years, as shall be directed by the commanding officer on such foreign station; and that any soldier who shall give notice to his commanding officer, after completing his second term of limited service, that he is desirous of continuing in her Majesty's service, or in the service of the *East India* Company, and being approved by his commanding officer or other competent military authority, may be continued in such service as a soldier so long as he shall desire to be so continued, and until the expiration of three calendar months after he shall have given notice to his commanding officer of his wish to be discharged, and

If terms of limited services expire while soldiers are on any foreign station, they may be prolonged for a further time.

for that purpose shall be considered in all respects, during such time, as if his term of service were still unexpired.

If at the expiration of such terms of service soldiers are unwilling to re-engage themselves, they shall be conveyed home.

VI. Provided further, and be it enacted, that if at the expiration of such first or second term of limited service, or of such term of prolonged service, any soldier entitled to his discharge, being on any foreign station, shall not be willing to re-engage or to continue in her Majesty's service, or in the service of the *East India* Company, the commanding officer of the regiment in which he may be serving shall, as in the case of soldiers invalided, take the usual measures, with all convenient despatch, for the conveyance of such soldier to *England*, and on the arrival of such soldier in *England* he shall be finally discharged: Provided always, that during such time as may elapse between the expiration of such terms of service as aforesaid and his final discharge in *England* such soldier shall remain subject to all the provisions of any Act which may be then in force for punishing mutiny and desertion, as fully as he may have been subject thereto before the expiration of such terms of service: Provided also, that if at the expiration of any such first or second term of limited service, or of such term of prolonged service, any soldier being in any of her Majesty's colonies shall claim his discharge, and shall signify to the governor of such colony, through the commanding officer of the regiment in which he may be serving, his desire to remain in such colony, it shall be lawful for such governor, if he shall think fit, with the consent of such commanding officer, to permit such soldier to remain therein, and thereupon such soldier shall be finally discharged, and shall not be entitled to claim to be conveyed to *England* at the public charge at any future period.

If soldiers desire to remain in the colony, governor, &c. may permit them so to do.

If term of enlistment of soldier expire after any offence committed, &c, he shall be deemed to be in the service till after trial, &c for the same.

VII. And be it enacted, that if the term for which any non-commissioned officer or soldier shall have been enlisted or re-engaged, or for which his term of service may have been prolonged as aforesaid, shall expire after any offence committed by him, and before he has been tried or punished for the same, such non-commissioned officer or soldier shall, notwithstanding the expiration of his term of service, be deemed and taken to be still in her Majesty's service, or in the service of the *East India* Company, as the case may be, for the purpose of undergoing his trial and punishment, but for no other purpose: Provided always, that no non-commissioned officer or soldier shall be so tried after the expiration of his service, except by a general or district or garrison court-martial.

If soldiers are absent from duty by reason of imprisonment, &c., such portion

VIII. And be it enacted, that if any non-commissioned officer or soldier shall have been absent from his duty during any portion of the time limited by his enlistment or re-engagement, or prolongation of service by reason of his imprisonment, whether under sentence of a court-martial or of any other court

duly authorized to pass such sentence, or by reason of his confinement for debt, or by reason of his desertion, such portion of his time shall not be reckoned as a part of the limited service for which such non-commissioned officer or soldier was enlisted or re-engaged, or for which his term of service may have been prolonged as aforesaid; and if any non-commissioned officer or soldier shall have been absent from his duty during any portion of the time limited by his enlistment or re-engagement or prolongation of service by reason of his having been made a prisoner of war, the circumstances under which he was so made a prisoner shall, on his rejoining her Majesty's service, or the service of the *East India* Company, be subjected to inquiry by a court-martial, and if it shall appear to the satisfaction of the court that he was taken prisoner through his own wilful neglect of his duty, or that he has or has not returned to his duty so soon as he could and ought to have returned, the court may by its sentence direct that all or any part of the time during which such non-commissioned officer or soldier shall have been so absent may be deducted from his term of service.

of time not to be reckoned as part of limited enlistment.

IX. And be it enacted, that this Act may be amended or repealed by any Act to be passed in this session of Parliament.

Act may be amended, &c.

SCHEDULES to which the foregoing Act refers.

SCHEDULE (A).

Questions to be put by the Justice to a Recruit on Enlisting.

1. What is your name?
2. In what parish, and in or near what town, and in what county, were you born?
3. What is your age?
4. What is your trade or calling?
5. Are you an apprentice?
6. Are you married?
7. Are you ruptured or lame; have you ever been subject to fits; or have you any disability or disorder which impedes the free use of your limbs, or unfits you for ordinary labour?
8. Are you willing to be attested to serve in the regiment of for the term of [*this blank to be filled up by the justices with ten years for infantry, and twelve for cavalry or artillery or other ordnance corps, if the person enlisted is of the age of eighteen*

years or upwards; but if under that age, then the difference between his age and eighteen is to be added to such ten or twelve years (as the case may be)], provided her Majesty should so long require your services, and also for such further term, not exceeding two years, as shall be directed by the commanding officer on any foreign station?

9. At what place, on what day, at what hour of the day, and by whom were you enlisted?
10. For what bounty did you enlist?
11. Have you any objection to make to the manner of your enlistment?
12. Do you now belong to the militia?
13. Do you belong to any other regiment, or to the marines, ordnance, or navy, or to the forces of the East India Company?
14. Have you ever served in the army, marines, ordnance, or navy, or in the forces of the East India Company?
15. Have you ever been rejected as unfit for her Majesty's service, or for the service of the East India Company, upon any prior enlistment?

Note.—The justice is directed, in putting the twelfth question to the recruit, and before he receives his answer, distinctly to apprize the recruit that if he belongs to the militia, and denies the fact, he is liable to six months' imprisonment.

Enlisting for Service in Her Majesty's Colonies.

Question 8 is to be put by the justice as follows:

8. Are you willing to be attested to serve in her Majesty's colony of for the term of [*this blank to be filled up by the justices with ten years for infantry, and twelve for cavalry or artillery or other ordnance corps, if the person enlisted is of the age of eighteen years or upwards; but if under that age, then the difference between his age and eighteen is to be added to such ten or twelve years (as the case may be)*], provided her Majesty should so long require your services, and also for such further term, not exceeding two years, as shall be directed by the commanding officer on any foreign station?

Enlisting for either Her Majesty's or the East India Company's Service.

Question 8 is to be put by the justice as follows:

8. Are you willing to be attested to serve in her Majesty's army, or in the forces of the East India Company, according as her Majesty shall think fit to order, for the term of [*this blank to be filled up by the justices with ten years for infantry, and twelve for cavalry or artillery or other ordnance corps, if the person enlisted is of the age of eighteen*

years or upwards; but if under that age, then the difference between his age and eighteen is to be added to such ten or twelve years (as the case may be)], provided your services should so long be required, and also for such further term, not exceeding two years, as shall be directed by the commanding officer on any foreign station?

Enlisting for the East India Company's Service.

Question 8 to be put by the justice as follows:

8. Are you willing to be attested to serve in the East India Company's[a] for the term of [*this blank to be filled up by the justices with ten years for infantry, and twelve for cavalry or artillery or other ordnance corps, if the person enlisted is of the age of eighteen years or upwards; but if under that age, then the difference between his age and eighteen is to be added to such ten or twelve years (as the case may be)*], provided the said company should so long require your services, and also for such further term, not exceeding two years, as shall be directed by the commanding officer on any foreign station?

SCHEDULE (B.)

I, Number do declare, that I am at present (*or was, as the case may be,*) in captain company in the regiment; that I enlisted on the day of for a term of years; that I am of the age of years; and that I will serve her Majesty, her heirs and successors, [*or* in the forces of the East India Company, *as the case may be,*] for a further term of years [*to be filled up with eleven years in the infantry, and twelve in the cavalry or artillery or other ordnance corps, and in the case of a soldier about to embark for foreign service, with such number of years as shall be required to complete a total service of twenty-one years in the infantry, or twenty-four in the cavalry or artillery or other ordnance corps*], provided my services should so long be required, and also for such further term not exceeding two years, as shall be directed by the commanding officer on any foreign station.

Declared before me,

Signature of soldier.
Signature of witness.

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[a] The blank to be filled up with the words infantry or artillery, as the case may be.

10 & 11 VICTORIA. A. D. 1847.

CHAPTER LXII.

An Act for the Establishment of Naval Prisons, and for the Prevention of Desertion from Her Majesty's Navy.

[*2nd July 1847.*]

WHEREAS by the laws and customs of her Majesty's navy officers commanding her Majesty's ships and vessels are empowered to order corporal punishment to be inflicted on men in her Majesty's service for various offences, for the purpose of preserving and enforcing discipline, without the offenders being tried by court-martial: And whereas it is expedient that officers commanding her Majesty's ships and vessels should have the power of inflicting summary punishment by imprisonment; and it is also expedient that the Lord High Admiral, and the Commissioners for executing the office of Lord High Admiral, shall have power to establish and regulate naval prisons, and that further provision shall be made for the apprehension of deserters, and for checking desertion from her Majesty's navy: . . . . . .

* * * * * * * * *

Apprehension, &c. of persons suspected to belong to the navy, and to be deserters, or improperly absent from duty.

IX. AND be it enacted, that it shall be lawful for the constable of any place where any person reasonably suspected to belong to her Majesty's navy, and to be a deserter or improperly absent from his duty, shall be found, or of any adjoining place, and if no such constable can be immediately met with to secure him, then for any person in her Majesty's service, to apprehend or cause such suspected person to be apprehended, and cause him to be brought before any justice in the United Kingdom, or in any of her Majesty's dominions or territories, ... in or near such place, who shall examine such suspected person; and if by his confession, or the testimony of one or more witness or witnesses upon oath, or by the knowledge of such justice, it shall appear that any person brought before him is a person belonging to her Majesty's navy improperly absent from his duty, such justice shall forthwith cause him to be conveyed to the nearest or most convenient public prison, and shall transmit an account thereof to the Secretary of the Admiralty, or to any commander-in-chief or officer commanding any one of her Majesty's ships or vessels, with a description of such person and the name of the ship or vessel to which he shall or may be suspected to belong, or if any such offender shall be apprehended by any person in her Majesty's service, or shall be apprehended in the vicinity of any one of her Majesty's ships or vessels in commission, then such justice shall order him to be taken on board any such ship or vessel, instead of committing him to prison; and in all cases the

Reward to

justice shall certify the name of the person by whom the offender was apprehended, and such last-mentioned person shall be entitled to a reward for such apprehension, according to the amount which is or may be established by the naval regulations or instructions for the time being in that behalf, or in case the apprehension shall be under circumstances for which no reward is or may be established, the amount of such reward shall be any sum in the discretion of the Lord High Admiral, or the said Commissioners, or of the officer commanding the vessel to which the deserter or person who shall have been improperly absent shall belong, not exceeding three pounds, and the reward shall in every case be paid and charged against the wages or pay of any such offender, and stopped out of the same; and for every such information, commitment, or order and account as aforesaid the clerk of the said justice may be entitled to a fee of two shillings and no more, and every gaoler and other person into whose custody any such offender is committed shall immediately upon the receipt of him pay such fee of two shillings, and also, upon the production of a receipt from the medical practitioner who may have been required to examine such suspected person, a fee of two shillings and sixpence, and such sums shall be repaid to such gaoler or other person, and the same, together with sixpence for every day the offender shall be in his custody, which shall be paid to such gaoler or other person, shall be charged against the pay or wages of the offender; and every gaoler or other person having the custody of any such offender shall deliver him up to any person authorized to take charge of him by the Lord High Admiral, or the Commissioners for executing the office of Lord High Admiral, or by any naval commander-in-chief, or the officer commanding any one of her Majesty's ships or vessels, and any person so authorized shall convey him in safe custody on board any one of her Majesty's ships or vessels in commission.

person apprehending any such deserter, &c.

Fees to clerk of justice,

medical practitioner examining deserter, &c., and gaoler, &c. to whose charge he is committed.

X. And be it enacted, that any person who shall voluntarily deliver himself up as and confess himself to be a deserter from any one of her Majesty's ships or vessels, or improperly absent from such ship or vessel, or who while serving in any of her Majesty's forces, or the embodied militia, ... , shall to any officer or non-commissioned officer thereof confess himself to be a deserter as aforesaid, or improperly absent as aforesaid, or who, upon being apprehended for any offence, shall in the presence of the justice confess himself to be a deserter, or improperly absent from his ship or vessel as aforesaid, and his statement shall not be true, he shall, if received into her Majesty's naval service, be deemed in her Majesty's navy, and be liable to serve and be detained therein as if he had voluntarily entered, or in case such person shall not be received into her Majesty's navy, he shall, on conviction thereof before two justices of the peace, at or near the place where he shall deliver himself

Fraudulent confession of desertion, &c. from navy.

up or confess, or where he may at any time happen to be, be adjudged to be punished, if in England, as a rogue and a vagabond, and if in Scotland or Ireland, by commitment to some prison or house of correction, there to be kept to hard labour for any time not exceeding three months.

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Penalty on governors of prisons, &c., for neglect of duty as to prisoners or offenders

XII. And be it enacted, that every governor, gaoler, and keeper of any prison, gaol, or house of correction, and every officer having the charge or command of any place, ship, or vessel for imprisonment, who shall refuse or neglect to receive or confine, remove, discharge, or deliver up any prisoner or offender as herein prescribed, shall forfeit for every such refusal or neglect the sum of one hundred pounds.

Recovery of penalties.

XIII. And be it enacted, that all penalties and forfeitures imposed by this Act shall and may be recovered, with costs, either by information or complaint, by summary proceedings before any justice or justices of the peace residing in or near to the place where the offence shall be committed, or where the offender shall at any time happen to be, and whether the offence be committed in or out of her Majesty's dominions, or within the jurisdiction of the Admiralty of England, or not; and if the sum imposed as a penalty by any such justice or justices shall not be paid either immediately after the conviction or within such reasonable time as such justice or justices shall at the time of the conviction appoint, it shall be lawful for the justice or justices to commit the offender or offenders to the common gaol or house of correction, there to be imprisoned only, or to be imprisoned and kept to hard labour, according to the discretion of such justice or justices, for any term not exceeding six calendar months, the commitment to be determinable upon payment of the amount and costs; and all penalties and forfeitures recoverable under this Act shall be paid and applied in manner following; (that is to say,) one moiety of such penalty shall be paid to the informer or complainant, and the residue thereof shall be paid to the Commissioners of Greenwich Hospital, any thing in an Act passed in the sixth year of the reign of his late Majesty King William the Fourth, intituled "An Act to provide for the regulation of municipal corporations in England and Wales," or in any other Act or Acts of Parliament, to the contrary notwithstanding.

Commitment for non-payment.

Application of penalties

5 & 6 Will. 4. c 76.

Power to summon, and compel attendance of witnesses.

XIV. And be it enacted, that any justice or justices of the peace may summon any witness to appear and give evidence before him or them upon any matter cognizable under this Act, at a time and place appointed for hearing the information or complaint, and by warrant under his hand and seal, or their hands and seals, may require any person to be brought before him or them who shall neglect or refuse to appear to give evidence at the time or place appointed in such summons, proof upon oath being first given of personal

service of the summons upon the person against whom such warrant shall be granted; and such justice or justices may commit any person coming or brought before him or them who shall refuse to give evidence to any common gaol or house of correction, there to remain without bail or mainprize for any time not exceeding six calendar months, or until such person shall sooner submit himself to be examined, and in case of such submission the order of any such justice or justices shall be sufficient warrant for the discharge of such person.

Persons refusing to appear or give evidence may be committed.

XV. And be it enacted, that the justice or justices before or by whom any person or persons shall be summarily convicted of any offence against this Act may cause the conviction to be drawn up in the following form of words, or in any other form of words to the same effect, as the case shall require; (that is to say,)

Form of conviction.

'Be it remembered, that on the day of in 'the year of our Lord , at , in the 'county of , [*or* riding, division, liberty, city, *et cætera, as* '*the case may be,*] *A. O.* is convicted before me [*or* us, *naming the justice or* '*justices*], one [*or* two] of her Majesty's justices of the peace for the said 'county [*or* riding, *et cætera*], for that he the said *A. O.* did [*specify the offence,* '*and the time and place when and where the same was committed, as the case* '*may be*]; and I [*or* we] the said justice [*or* justices] do adjudge the said '*A. O.*, for his said offence, to forfeit and pay the sum of '[*here state the amount of fine imposed*], and I [*or* we] the said justice [*or* 'justices] do also adjudge the said *A. O.* to pay the sum of 'for costs; and in default of immediate payment of the said sums of ' and [*or* in default of payment of the 'said sums of and on or before the 'day of] I [*or* we] the said justice [*or* justices] do adjudge the 'said *A. O.* to be imprisoned [*or* to be imprisoned and kept to hard labour] in 'the , for the space of , unless the said sums 'shall be sooner paid; and I [*or* we] direct that the sum of 'part of the said penalty, together with the said sum of for 'costs, shall be paid to *C. D.* [*the party informing or complaining*], and the 'residue of the said penalty shall be paid to the Commissioners of Greenwich 'Hospital.

'Given under my hand [*or* our hands] the day and year first above 'written.'

XVI. And be it enacted, that no conviction under this Act shall be quashed for want of form, or be removed by certiorari or otherwise into any of her Majesty's superior courts of record, and no warrant, commitment, or order for

No certiorari, &c.

imprisonment shall be held void by reason of any defect therein, provided it be therein alleged that the person has been convicted or ordered to be imprisoned, and there be a good and valid conviction or an offence to sustain the same.

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10 & 11 VICTORIA. A. D. 1847.

Chapter XCV.

An Act to amend the Law relating to the Protection in the Colonies of Works entitled to Copyright in the United Kingdom.

[*22nd July 1847.*]

5 & 6 Vict. c. 45.

Whereas by an Act passed in the session of Parliament holden in the fifth and sixth years of her present Majesty, intituled "An Act to amend the law of copyright," it is amongst other things enacted, that it shall not be lawful for any person not being the proprietor of the copyright, or some person authorized by him, to import into any part of the United Kingdom, or into any other part of the British dominions, for sale or hire, any printed book first composed or written or printed or published in any part of the United Kingdom wherein there shall be copyright, and reprinted in any country or place whatsoever out of the British Dominions: And whereas by an Act passed in the session of Parliament holden in the eighth and ninth years of the reign of her present Majesty, intituled "An Act to regulate the trade of the British possessions abroad," books wherein the copyright is subsisting, first composed or written or printed in the United Kingdom, and printed or reprinted in any other country, are absolutely prohibited to be imported into the British possessions abroad: And whereas by the said last-recited Act it is enacted, that all laws, bye laws, usages, or customs in practice, or endeavoured or pretended to be in force or practice, in any of the British possessions in America, which are in anywise repugnant to the said Act, or to any Act of Parliament made or to be made in the United Kingdom, so far as such Act shall relate to and mention the said possessions, are and shall be null and void to all intents and purposes whatsoever: Now be it enacted, by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that in case the legislature or proper legislative authorities in any British possession shall be disposed to make due provision for securing or protecting the rights of British

8 & 9 Vict. c. 93.

Sect. 63.

If any British possession passes an Act or ordinance securing the rights of British authors in such possession, and her

authors in such possession, and shall pass an Act or make an ordinance for that purpose, and shall transmit the same in the proper manner to the Secretary of State, in order that it may be submitted to her Majesty, and in case her Majesty shall be of opinion that such Act or ordinance is sufficient for the purpose of securing to British authors reasonable protection within such possession, it shall be lawful for her Majesty, if she think fit so to do, to express her royal approval of such Act or ordinance, and thereupon to issue an order in council declaring that so long as the provisions of such Act or ordinance continue in force within such colony the prohibitions contained in the aforesaid Acts, and herein-before recited, and any prohibitions contained in the said Acts, or in any other Acts, against the importing, selling, letting out to hire, exposing for sale or hire, or possessing foreign reprints of books first composed, written, printed, or published in the United Kingdom, and entitled to copyright therein, shall be suspended so far as regards such colony; and thereupon such Act or ordinance shall come into operation, except so far as may be otherwise provided therein, or as may be otherwise directed by such order in council, any thing in the said last-recited Act or in any other Act to the contrary notwithstanding.

Majesty approves of such Act or ordinance, she may, by order in council, suspend during the continuance of such Act, &c. the prohibitions of the recited Acts, &c. against importing, &c. into such possession foreign reprints of books first composed, &c. in the United Kingdom.

II. And be it enacted, that every such order in council shall, within one week after the issuing thereof, be published in the London Gazette, and that a copy thereof, and of every such colonial Act or ordinance so approved as aforesaid by her Majesty, shall be laid before both Houses of Parliament within six weeks after the issuing of such order, if Parliament be then sitting, or if Parliament be not then sitting, then within six weeks after the opening of the next session of Parliament.

Orders in council to be published in Gazette. Orders in council and the colonial Acts or ordinances to be laid before Parliament.

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11 & 12 VICTORIA. A. D. 1847-48.

Chapter XXI.

An Act to consolidate and amend the Laws relating to Insolvent Debtors in India.

[*9th June 1848.*]

Whereas an Act was passed in the ninth year of the reign of his late Majesty King George the Fourth, intituled "An Act to provide for the relief of insolvent debtors in the East Indies until the first day of March one thousand eight hundred and thirty-three": And whereas a certain other Act was passed in the second year of the reign of his late Majesty King William the Fourth, intituled "An Act to continue until the first day of March one thousand eight hundred and thirty-six an Act of the ninth year of his late Majesty, for the relief of insolvent debtors in India," whereby the said last-mentioned Act was continued in force until the first day of March one thousand eight hundred and thirty-six: And whereas

9 Geo. 4. c. 73.

2 & 3 Will 4. c. 43

a certain other Act was passed in the session of Parliament holden in the fourth and fifth years of the reign of his late Majesty King William the Fourth, intituled "An Act to amend the laws relating to insolvent debtors in India": And whereas by an Act passed in a session of Parliament holden in the sixth and seventh years of the reign of his late Majesty King William the Fourth, intituled "An Act to continue until the first day of March one thousand eight hundred and thirty-nine, and from thence to the end of the then next session of Parliament, the several Acts relating to insolvent debtors in India," the first-mentioned Act, as amended by the said Act of the session of the fourth and fifth years of the reign of his late Majesty King William the Fourth, was continued in force until the first day of March one thousand eight hundred and thirty-nine, and from thence to the end of the then next session of Parliament: And whereas by a certain other Act of Parliament passed in a session holden in the third and fourth years of the reign of her present Majesty, intituled "An Act to continue until the first day of March one thousand eight hundred and forty-five, and from thence to the end of the then next session of Parliament, the several Acts relating to insolvent debtors in India," the said Acts of the ninth year of the reign of King George the Fourth, and of the session of the fourth and fifth years of the reign of King William the Fourth, were continued until the first day of March one thousand eight hundred and forty-five, and from thence until the end of the then next session of Parliament: And whereas by a certain other Act of Parliament passed in a session holden in the ninth and tenth years of her present Majesty, intituled "An Act to continue until the first day of March one thousand eight hundred and forty-seven, and from thence to the end of the then next session of Parliament, the several Acts relating to insolvent debtors in India," the said Acts of the ninth year of the reign of King George the Fourth, and of the session of the fourth and fifth years of the reign of King William the Fourth, were continued until the first day of March one thousand eight hundred and forty-seven, and from thence to the end of the then next session of Parliament: And whereas it is expedient to consolidate the provisions of the said Acts into one Act, and to amend the laws relating to insolvent debtors in India: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that the said Acts of the ninth year of the reign of King George the Fourth, and of the session of the fourth and fifth years of the reign of King William the Fourth, shall be and the same are hereby continued until the thirty-first day of July one thousand eight hundred and forty-eight, and that from and after that day the same, and also the said Act of the session of the ninth and tenth years of the reign of her present Majesty, shall be and stand repealed. [Repealed, Stat. Law Rev. Act, 1875, and Act XIV of 1870.] . . . . . .

4 & 5 Will. 4. c. 79.

6 & 7 Will 4. c. 47.

3 & 4 Vict. c. 80.

9 & 10 Vict. c. 14.

Recited Acts, 9 Geo. 4. c. 73., 4 & 5 Will. 4. c. 79 and 9 & 10 Vict. c. 14., repealed.

II. And be it enacted, that the courts established under the first of the said recited Acts for the relief of insolvent debtors in the East Indies shall be continued and shall continue to be courts of record, with all the same powers as heretofore, and each shall continue to be styled "The Court for the Relief of Insolvent Debtors," and to be holden before any one judge of the supreme courts of judicature at Calcutta, Madras, and Bombay respectively, within the respective limits of the said towns of Calcutta, Madras, and Bombay; and that all the officers of the said courts respectively now established for the relief of insolvent debtors in the East Indies shall be, until removed under the

Courts established under 9 Geo. 4. c. 73., for relief of insolvent debtors, continued with the same powers as heretofore.

provisions herein-after contained, the officers of the said courts hereby continued respectively; and that all rules and orders not repugnant to the provisions of this Act now in force in the said courts respectively, and all tables of fees now in force therein, shall, until the same are varied or repealed, continue in force in like manner to all intents and purposes as if the Acts in force with respect to insolvent debtors before this Act comes into operation had been continued by this Act.

A court for relief of insolvent debtors to be holden once a month at least in Calcutta, and as often as found necessary in Madras and Bombay, by any one judge of the respective supreme courts.

III. And be it enacted, that a court for the relief of insolvent debtors shall be holden once a month at least throughout the year, and oftener if need be, in Calcutta, and so often as may be found necessary within the towns of Madras and Bombay, by any one judge of the said supreme courts of judicature respectively; and it shall be lawful for each of the said courts to sit for the despatch of business at one and the same time with the said supreme court of its presidency; and every advocate and attorney of the said supreme courts at Calcutta, Madras, and Bombay respectively shall be entitled to practise in the way of his profession in the court for the relief of insolvent debtors of that presidency, and no other persons shall practise as advocates or attornies in the said courts for the relief of insolvent debtors; and the said supreme courts of judicature respectively shall have power from time to time to make rules to regulate the proceedings of the courts hereby continued for the relief of insolvent debtors to be holden within their respective jurisdictions, and from time to time to vary and repeal, in whole or in part, any of the rules and orders and any table of fees now in force in the said courts respectively for the relief of insolvent debtors in the East Indies, and especially to provide in what manner notice shall be given to the creditors of parties applying for relief under this Act, and in what cases besides those mentioned in this Act costs may be awarded, and shall prepare and cause to be sealed with their respective seals a sufficient and proper list of fees to be charged and received by the officers of the said courts for the relief of insolvent debtors of their respective presidencies, and shall certify under their seals, and transmit to the President of the Board of Commissioners for the Affairs of India, copies of such rules and lists of fees, to be laid before her Majesty for her royal approbation, correction, or revision; and other copies of the same shall at all times be fixed in conspicuous places in the courts for the relief of insolvent debtors; and no other fee or gratuity shall be received or taken by any officer or attorney of such last-mentioned courts, on any pretence whatsoever, except such as shall be specified in such lists.

Rules for proceedings, and tables of fees.

Power to supreme courts to remove and

IV. And be it enacted, that her Majesty's supreme courts of judicature at Calcutta, Madras, and Bombay respectively shall have power from time to time to remove any of the officers of the courts hereby continued as the courts for

appoint officers, and reduce emoluments, from time to time.

the relief of insolvent debtors within their respective presidencies, and to make such reductions in the number and in the emoluments of such officers as may be practicable, and to them shall seem fit, and from time to time to appoint such persons as may be necessary to transact the business of such courts, and from time to time to annul all of any of such appointments, and to reduce the number of such officers in case the number of the same may be conveniently reduced; and that each of the said courts hereby continued shall cause to be sealed with the seal of the said court all such records, proceedings, documents, and copies of the same as are herein-after expressly required to be so sealed, and such other records, proceedings, documents, and copies of the same, as the said court shall at any time direct; and that the said courts respectively may adjourn any of their sittings from time to time, and to such time as may be requisite, and shall have power to administer oaths, or, in the case of such persons as shall object on the ground of any religious or conscientious scruples to take an oath, solemn affirmations, and shall examine all parties and witnesses upon oath or such solemn affirmation for the purposes of this Act; and the said courts respectively shall have the like powers of issuing commissions to take evidence as now are or may be hereafter possessed by the supreme courts respectively of their several presidencies, and shall have the like powers of compelling the attendance of the insolvent and all other parties at all times when their attendance may be deemed requisite by the said court, and of all witnesses or any other persons who may be able to give any information respecting the debts, estates, and effects of such insolvent, before the said courts respectively, or before any officer of the said courts respectively, and of requiring and compelling the production of books, papers, and writings, as now are or may hereafter be possessed by the supreme courts respectively of the respective presidencies, or as are given to commissioners of bankrupts by an Act passed in the sixth year of the reign of his late Majesty King George the Fourth, intituled "An Act to amend the laws relating to bankrupts"; and each of the said courts hereby continued for the relief of insolvent debtors shall have power to order any prisoner whose estate shall be vested in any assignee under the provisions of this Act, or of any of the Acts herein-before referred to, or any prisoner who shall be a necessary and material witness in any matter pending in the said court, to be brought before the said court or officer as often as shall be requisite, which order alone shall be a sufficient authority and protection to the gaoler or officer or person in whose custody he may be for the production of such prisoner; and each of the said courts shall have the power of fining in a summary way, and of committing until such fine be paid, or of committing in the first instance without fining, all persons guilty of contempt of the said court, and of fining in a summary way, and of

Records, &c. to be sealed with the seal of the court.

Power to court to adjourn sittings, administer oaths, &c.

Courts to have the same power to issue commissions, and compel attendance of insolvents and witnesses, and production of books, &c., as are possessed by supreme courts, or given to commissioners of bankrupt under 6 Geo. 4. c. 16.

Power to courts to order prisoners to be brought up as often as requisite;

and to fine and commit persons guilty of contempt; and to fine and remove officers.

removing, any of the officers of the said courts who shall be guilty of negligence, wilful or unnecessary delay, or other misconduct: Provided always, that the said courts for the relief of insolvent debtors shall not have the power of awarding costs against any person, except in cases in which it is expressly permitted by this Act, or in which it shall be expressly permitted by any rules which shall be made by the said supreme courts respectively as to costs to be awarded in the said courts for the relief of insolvent debtors respectively.

Courts not to award costs except in certain cases.

V. And be it enacted, that from and after the time appointed for this Act to take effect any person who shall be in prison within the respective limits of the towns of Calcutta, Madras, and Bombay, upon any process whatsoever, for or by reason of any debt, damages, costs, or money which such person is solely or jointly with any other liable to pay, or for or by reason of any contempt of any court whatsoever for nonpayment of money only, or of costs taxed or untaxed, either ordered to be paid, or to the payment of which such person would be liable in clearing such contempt, or in any manner in consequence of or by reason of such contempt, or who shall reside within the jurisdiction of any of the supreme courts at Calcutta, Madras, and Bombay respectively, and, being indebted on account of any such liability as aforesaid, shall be in insolvent circumstances, may at any time apply by petition to the court for the relief of insolvent debtors within the presidency where such insolvent debtor shall then be, for the benefit of the provisions of this Act, which petition may be in the form in the schedule (A.) to this Act, or the schedule (B.) to this Act, (as the case may require,) with such additions and variations as may be necessary to adapt it to the particular case; and such petition shall be subscribed by the said prisoner, and shall forthwith be filed in the said court to which it shall be presented; and if any such person as aforesaid shall be jointly indebted, it shall be lawful for them to apply jointly by petition, in such manner as is herein-before mentioned, and under such joint petition the joint estate and the separate estates of such petitioners shall be dealt with and distributed.

Persons imprisoned for debts, or in insolvent circumstances, may petition the court for relief according to the forms in the schedules (A) or (B.) to this Act.

VI. And be it enacted, that where any such petition for relief as is aforesaid shall be presented by any such insolvent to the said court for the relief of insolvent debtors, the party presenting the petition, at the same time, or within such further time as the said court may deem reasonable, shall deliver into the court a schedule in the form in the schedule (C.) to this Act annexed, with such additions and variations as may be necessary to adapt it to the particular case, containing a full and true description as to all matters and things required to be set forth therein, so far as the same can be described or set forth; and the said schedule shall be subscribed by such petitioner, and shall forthwith be filed in the said court.

Party petitioning to deliver in a schedule in the form in schedule (C.)

Upon filing of petition, court may order the real and personal estate of petitioner to be vested in official assignee as court shall direct.

VII. And be it enacted, that upon the filing of any such petition as is aforesaid it shall be lawful for the said court, and the said court is hereby authorized and required, to order that all the real and personal estate and effects of such petitioner, whether within the territories within the limits of the charter of the East India Company or without, except the wearing apparel, bedding, and other such necessaries of such petitioner and his family, and the working tools and implements of such petitioner and his family, not exceeding in the whole the value of Company's rupees three hundred for each petitioner with his family, and all debts due to him, and all the future estate, right, title, interest, and trust of the said petitioner in or to any real or personal estate or effects within or without the said territories which such petitioner may purchase, or which may revert, descend, be devised or bequeathed, or come to him, and all debts growing due to him before the court shall have made its order in the nature of a certificate as herein-after mentioned, do vest in the official assignee for the time being of the said court, and that all books, papers, deeds, and writings in any way relating to such petitioner's estate and effects in his possession, or under his custody or control, shall be deposited with such assignee; and such order shall be entered of record in the said court, and such notice thereof shall be published as the said court shall direct; and such order, when so made, shall by virtue of this Act relate back to and take effect from the filing of the said petition, and shall instantly, and without any conveyance or assignment, vest all the real and personal estate, effects, and debts as aforesaid in the said official assignee, who shall have full powers for the recovery thereof, and shall hold and stand possessed of the same for the purposes and in manner herein-after mentioned: Provided always, that in case after the making of any such vesting order the petition of any such petitioner shall be dismissed by the said court, such vesting order made in pursuance of such petition shall from and after such dismissal be null and void to all intents and purposes: Provided also, that in case any such vesting order as aforesaid shall become null and void by the dismissal of such petition, all acts theretofore done by any assignee or other person acting under his authority according to the provisions of this Act shall be good and valid, and no action or suit shall be commenced against any such assignee, nor against any person duly acting under his authority, except to recover any property of such petitioner detained after an order made by the said court for the delivery thereof, and demand made thereupon; . . . . . .

Order to relate back to filing of petition.

In case, after making vesting order, petition be dismissed, vesting order to be null and void; but all acts done by any assignee, &c. under this Act to be held valid.

Lying in prison 21 days for debt shall be deemed an act of insolvency, on

VIII. And be it enacted, that from and after the time appointed for this Act to take effect, if any person who shall be in prison within the respective limits of the towns of Calcutta, Madras, and Bombay, charged in execution for any debt or damages, or any costs or sum or sums of money, or committed for

or by reason of any contempt of any court whatsoever for nonpayment of money, or of costs taxed or untaxed, either ordered to be paid, or to the payment of which such person would be liable in clearing such contempt, or in any manner in consequence or by reason of such contempt, shall not, within twenty-one days next after such prisoner shall have been so charged in execution or committed as aforesaid, make satisfaction to the creditor or creditors at whose suit such prisoner shall have been so charged in execution or committed for such debt, damages, costs, sum or sums of money, or to the person or persons entitled to the money for nonpayment of which such prisoner shall have been in contempt, or to the payment of which such prisoner would be liable in consequence or by reason of such contempt, then and in any of the said cases it shall be lawful for any such creditor or creditors or person or persons entitled to such money as aforesaid to present a petition to the court for the relief of insolvent debtors of the presidency within which such person shall have been so imprisoned, which petition may be in the form No. 1 in the schedule (D.) to this Act annexed, with such additions or variations as may be necessary to adapt it to the particular case; whereupon, and upon such petition being duly verified, it shall be lawful for the court to adjudge that such prisoner has committed an act of insolvency: Provided always, that it shall be lawful for the said court, upon the petition of any person adjudged to have committed an act of insolvency as aforesaid, and upon proof of notice to the creditor or creditors upon whose petition such adjudication shall have been made, to revoke or confirm such adjudication.

which creditor may petition in form No. 1 in schedule (D.)

Adjudication on petition.

Court may, upon petition of debtor, revoke or confirm adjudication.

IX. And be it enacted, that if any person who, by an Act passed in the sixth year of the reign of King George the Fourth, intituled "An Act to amend the laws relating to bankrupts," or an Act passed in the session held in the fifth and sixth years of the reign of her present Majesty, intituled "An Act for the amendment of the law of bankruptcy," or any other Act now in force or hereafter to be passed, would be deemed a trader liable to become bankrupt, having been arrested or committed to prison for debt, or for or by reason of any contempt of any court whatsoever, for nonpayment of money only, or of costs taxed or untaxed, either ordered to be paid, or to the payment of which such person would be liable in clearing such contempt, shall upon such or any other arrest or commitment for debt or nonpayment of money or costs as aforesaid lie in prison twenty-one days, or having been arrested or committed to prison for any other cause shall be in prison for twenty-one days after any detainer for debt, nonpayment of money or costs as aforesaid, lodged against him and not discharged, or if any such person shall depart from within the limits of the jurisdiction of any of the said supreme courts with intent to defeat or delay his creditors, or with the like intent depart from his usual

Parties subject to the bankrupt laws lying in prison 21 days, or departing the jurisdiction with intent to defeat or delay their creditors, or with like intent making any fraudulent gift, &c. shall be deemed to have committed an act of insolvency, on which creditors may petition in form No. 2 in schedule (D.)

place of business or abode within the said jurisdiction, or make with like intent any fraudulent gift, grant, conveyance, delivery, or transfer of any of his lands, tenements, money, goods, or chattels, or fraudulently with like intent suffer his lands, money, goods, or chattels to be taken in execution, attached, or sequestered, it shall be lawful for any person being a creditor, or for two or more persons being partners in trade and creditors to the amount of Company's rupees five hundred, or for any two creditors to whom such person shall be indebted to the amount of seven hundred Company's rupees, or for any three or more creditors to whom such person shall be indebted to the amount of Company's rupees one thousand, to present a petition to the court for the relief of insolvent debtors of the presidency within which such person shall have been so imprisoned or have resided at the time of such departure, or of such fraudulent gift, grant, conveyance, delivery, transfer, or fraudulent execution, attachment, or sequestration, which petition may be in the form No. 2 in the schedule (D.) to this Act annexed, with such additions and variations as may be necessary to adapt it to the particular case; whereupon, and upon such petition being duly verified, it shall be lawful for the court to adjudge that such person has committed an act of insolvency: Provided always, that it shall be lawful for the said court, upon the petition of any person adjudged to have committed an act of insolvency as aforesaid, and upon proof of notice to the creditor or creditors upon whose petition such adjudication shall have been made, to revoke or confirm such adjudication.

Adjudication on petition.

Court may, upon petition of debtor, revoke or confirm adjudication.

X. And be it enacted, that every person who shall have given credit to any trader upon valuable consideration for any sum payable at a certain time, which time shall not have arrived when such trader committed any act of insolvency within the meaning of this Act, may so petition or join in petitioning as is aforesaid, whether he shall have had any security for such sum or not.

Creditor whose demand at the time of act of insolvency is not then due may petition or join in petition.

XI. And be it enacted, that upon any such adjudication being made as herein-before is mentioned the said court is hereby authorized and required to make the like vesting order as herein-before is authorized to be made in the case of a petition by an insolvent debtor, which said vesting order shall in like manner be entered of record and notified as is herein-before mentioned, and shall, when made, take effect by relation from the filing of the petition on which the adjudication shall have proceeded; and such order shall, when made, vest in like manner all the said estate and effects, right, title, and interest, trust and debts of the insolvent in the official assignee, in like manner, and as fully, and with the like effect, as is herein-before mentioned, and which said vesting order shall, in case of the adjudication being for any reason revoked, be thenceforth null and void, to all intents and purposes, in

On adjudication of act of insolvency, vesting order to be made and take effect, and to be void if adjudication is revoked, as where the petition is presented by the insolvent.

like manner, and with the like effect, and under the same qualifications, as herein-before is mentioned.

Court on such adjudication shall direct insolvent to file a schedule in form in schedule (C.)

XII. Provided always, and be it enacted, that after the adjudication of an act of insolvency in any of the cases aforesaid it shall be lawful for the court to direct, and it is hereby required to direct, the insolvent to file, within a time to be named by the court, and the said insolvent is hereby directed and required to file accordingly, a schedule in the form in schedule (C.) to this Act annexed, in the court by which such adjudication shall have been pronounced; and the court shall be at liberty to proceed thereupon in like manner as in the case of an insolvent presenting a petition for relief under this Act.

Power of court to grant interim order for protection of insolvent.

XIII. And be it enacted, that in any case where a petition shall have been presented by an insolvent debtor as aforesaid, or an act of insolvency shall have been adjudged to have been committed as aforesaid, it shall be lawful for the said court, after the filing of the schedule required by this Act, if under the circumstances it shall appear proper, to make an interim order for the protection of the insolvent from arrest, and any such interim order may apply either to all the debts or liabilities mentioned in the said schedule, or to any of them, as the court may think proper, and may commence and take effect at such time as the court shall direct; and any such order may be recalled, and may be renewed, as to the court may appear proper; and any such order, when so made, shall protect the person to whom it shall be given from being arrested or detained in prison for any debt or liability to which such order shall apply within the limits of the towns of Calcutta, Madras, and Bombay respectively, or any other place within the territories under the government of the East India Company; and any person arrested or detained contrary to the tenor and effect of any such order shall be entitled to his discharge out of custody, upon application to any court or judge which or who shall have power to set at large persons illegally detained in custody under the process by virtue of which such person shall have been arrested or be so detained: Provided always, that no such order shall operate as a release or satisfaction of the debt or demand of any creditor, nor prejudice the right of any such creditor to arrest the insolvent, whether he shall or not have been previously arrested for the same debt or demand, in case the order shall be recalled, or shall fall by reason of the petition of the insolvent being dismissed, or the adjudication being reversed.

Order not to operate as a release, or prevent arrest if order be recalled or fall by petition being dismissed or adjudication annulled.

Judges of supreme courts to appoint an official assignee for each court.

XIV. And be it enacted, that as soon as this Act shall come into operation there shall be appointed by the chief justice of the supreme court at each of the said presidencies, or in the case of any vacancy in the office of chief justice then by the senior judge for the time being of such court, one person to each court for the relief of insolvent debtors in each of the said presidencies

respectively, to be the official assignee in all insolvencies in the course of prosecution at the time when this Act shall take effect, or to be afterwards prosecuted in the said court; and every such official assignee shall at all times be, by virtue of such his appointment, and without any other assignment, an assignee of every such insolvent's estate and effects, together with any other assignee or assignees, or solely, according as there may or may not be then or afterwards any other assignee or assignees of such estate or effects.

Official assignees to give security, and be subject to rules made by supreme court, to be approved by the Governor General and by her Majesty.

Insolvents' estates to be received by official assignee alone, except when directed by the court to be received by official and special assignees.

XV. And be it enacted, that every such official assignee shall give such security, and shall be subject to such rules, and shall act in such manner, as the judges of the supreme court shall direct by any rules and orders of the said court, to be approved of by the Governor General of India in council, and to be transmitted to the President of the Board of Commissioners for the Affairs of India, to be laid before her Majesty for her royal approbation, correction, or revision; and all the moveable estate and effects, and the rents and profits of all immoveable estate, and the proceeds of sale of all the estate and effects of the insolvent, shall in every case be possessed and received by such official assignee alone, save where it shall be expressly directed by the court for the relief of insolvent debtors to be possessed and received by such official assignee and the special assignee or assignees (if any), which the said court shall have power, if it think fit, to direct, and in all cases of such receipt and possession shall, within seven days, be paid, delivered, or transferred by such official assignee or such official assignee and other assignee or assignees as aforesaid to and be kept in deposit in such public bank or other safe place of deposit, and be managed and dealt with, as the judges of the supreme court shall have directed or may direct by any rules or orders of the said court, to be approved of by the Governor General in council, and to be transmitted for approbation, correction, or revision, in manner aforesaid.

Appointment of official assignees on vacancies.

XVI. . . . . upon the death, resignation, or removal from office of each such official assignee, another official assignee shall be appointed in his place, in the like manner as upon the first of each of such appointments.

On application of creditors, after vesting orders, &c. court may order an election of special assignees by the creditors.

XVII. And be it enacted, that at any time after the making of any such vesting order as aforesaid, or after any such adjudication of insolvency as aforesaid, if any creditor or creditors of any such insolvent trader as aforesaid shall be desirous that an assignee or assignees of the insolvent's estate and effects shall be chosen by the creditors, he or they shall be at liberty to apply in writing, by petition to the court, that such election shall take place; and thereupon a time and place for such election shall be appointed by the court; and all creditors whose debts amount to one hundred rupees and upwards, who shall be included in the schedule as creditors, or who shall have proved their

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debts, shall be entitled to vote in such choice, and the choice shall be made by the major part in value of the creditors so entitled to vote; and the person or persons so elected shall be appointed by the court a special assignee or special assignees of the estate of the said insolvent; provided that any creditor shall be at liberty to give notice to any other person whose name is included in the schedule of the insolvent as a creditor, but who shall not have proved his debt, to prove his debt before he shall be admitted to vote on such election, and in such case such party shall not be entitled to vote until he shall have proved his debt.

Power of court to remove assignees.

XVIII. And be it enacted, that the court may at any time, in case of the unwillingness to act, removal from out of the jurisdiction of the court, incapacity, or misconduct, of any official assignee, or of any assignee appointed by the court on the election of the creditors, or for any other cause appearing to the court sufficient, by its order annul such appointment, and thereupon, or in the case of the death of any such official assignee or other assignee, another shall be appointed; provided that if it be the case of a chosen assignee such appointment shall not be made unless some creditor or creditors shall apply in writing, by petition to the said court, that an election of another person as assignee may be had, and thereupon the court shall proceed in all respects in like manner, and such election shall be made, conducted, and declared in all respects in like manner, as is herein-before directed as to the election of assignees by creditors; and no act or thing done prior to the order whereby such appointment is so vacated shall be annulled or in any way affected.

Thereupon, or on death of assignees, others to be appointed.

New special assignees not to be elected except on petition of creditors.

No remuneration to be received by assignee, except as herein provided.

XIX. And be it enacted, that no remuneration whatever, whether in the shape of commission or otherwise, shall be received by any assignee, except in the manner nor beyond the extent herein-after allowed; (that is to say,) the court may allow a fair remuneration to the assignee or assignees out of the sum to be distributed as dividends, and make an order accordingly: Provided always, that the court shall not have power to order any remuneration to be made to any assignee or assignees chosen by the creditors, unless the creditors shall at the time of the election declare that some remuneration is to be made to the assignee or assignees chosen by them, and at what rate such remuneration is to be made, and in such case the court shall have power to reduce, but not to increase, the amount of such last-mentioned remuneration.

Estate, and books, papers, &c. to vest, without conveyance or assignment, in new assignee.

XX. And be it enacted, that on every appointment of a new assignee the estate, effects, rights, and powers which would otherwise remain or be in the former assignee or assignees shall immediately, by virtue of such appointment, and without any conveyance or assignment in any case whatever, vest in the actual assignee or assignees, in trust for the benefit of the creditors of such insolvent, in respect of and in proportion to their respective debts, according

to the provisions of this Act; and all books, papers, deeds, and writings in any way relating to the estate and effects of the insolvent shall be transferred to and deposited with such assignee or assignees as last aforesaid, and from time to time, on each change of assignees, shall be transferred to the possession of the assignee or assignees for the time being of such insolvent; and the court shall have power to compel any assignee or assignees whose appointment may be vacated, or the heirs, executors, administrators, or assigns of any person once appointed such assignee and deceased, to account for and deliver up all such estates and effects, books, papers, writings, deeds, and all other evidences relating thereto, as shall have come to his or their hands, and the decision of the court thereupon shall be final and conclusive; and whenever any assignee shall die, or be removed from his office, and any other assignee or assignees shall be appointed as aforesaid, no action at law or suit in equity brought or defended by him or them in the character of assignee or assignees shall be thereby abated, but upon the suggestion of each such death, removal, or new appointment, such action or suit shall be prosecuted or defended in the name of the existing assignee or assignees; and any real and personal estate, money and effects, vested in or possessed by any official assignee shall not remain in him, if he shall resign or be removed from his office, nor in his heirs, executors, or administrators, in case of his death, but shall in every such case go to and be vested in his successor in office, by relation, from the time of his resignation, removal, or death, as the case may be; and every such appointment of any assignee other than the official assignee shall be entered of record of the said court, and such notice thereof shall be published as the said court shall direct, and every such assignee so appointed shall be liable to the control of the court, in like manner as any officer of the said court.

Delivery thereof may be enforced.

Actions, &c. not to abate by death, &c. of assignee.

Assignees to take possession of and realize estates.

XXI. And be it enacted, that every such assignee as aforesaid shall with all convenient speed take possession, by himself, or by means of messengers of the court, or by other fit and proper persons, of all the real and personal estate and effects of the insolvent of which immediate possession may be obtained, and shall use his best endeavours to seize, obtain, recover, and reduce into possession, as speedily as possible, the rest of such estate and effects, and all debts, claims, and choses in action, which by virtue of his appointment under this Act, and of the vesting order or adjudication aforesaid, he shall have been empowered to obtain, recover, and get in.

After vesting order, no distress for rent previously due shall be made, but landlord shall be entitled to prove

XXII. And be it enacted, that after any such vesting order shall be made as aforesaid no distress for rent due before such vesting order shall be made upon the goods and effects of the insolvent; but the landlord or party to whom the rent should be due shall be entitled to prove, in respect of such rent so due as aforesaid, whether the same shall or not be inserted in the schedule

of the insolvent, and to receive a dividend in respect of the said rent, and shall not, unless the petition of such insolvent be dismissed, or the adjudication be reversed, be entitled to distrain for the said rent.

for the amount.

XXIII. And be it enacted, that if any such insolvent shall, at the time of filing his petition, or at the time of filing the petition on which an adjudication of insolvency shall be made, by the consent and permission of the true owner thereof, have in his possession, order, or disposition any goods or chattels whereof such insolvent is reputed owner, or whereof he has taken upon him the sale, alteration, or disposition, as owner, the same shall be deemed to be the property of such insolvent, so as to become vested in the official assignee of the court by the order made in pursuance of this Act; provided that no assignment or transfer of any ship or vessel, or any share thereof, made as a security for any debt, either by way of mortgage or assignment, duly registered according to the provisions of any Act or Acts of Parliament now in force or hereafter to be passed for the registering of British vessels, shall be invalidated or affected by reason of such possession, order, or disposition of the same as aforesaid.

Property in the order and disposition of insolvent to be deemed his property.

Mortgages of ships or vessels, or shares thereof, duly registered, not to be invalidated or affected.

XXIV. And be it enacted, that if any insolvent who shall file his petition for his discharge under this Act, or who shall be adjudged to have committed an act of insolvency, shall voluntarily convey, assign, transfer, charge, deliver, or make over any estate, real or personal, security for money, bond, bill, note, money, property, goods, or effects whatsoever, to any creditor, or to any other person in trust for or to or for the use, benefit, and advantage of any creditor, every such conveyance, assignment, transfer, charge, delivery, and making over, if made when in insolvent circumstances, and within two months before the date of the petition of such insolvent, or of the petition on which an adjudication of insolvency may have proceeded, as the case may be, or if made with the view or intention, by the party so conveying, assigning, transferring, charging, delivering or making over, of petitioning the said court for his discharge from custody under this Act, or of committing an act of insolvency, shall be deemed and is hereby declared to be fraudulent and void as against the assignees of such insolvent.

Fraudulent conveyances, &c. made by insolvent within two months before insolvency, to be void.

XXV. And be it enacted, that if any such insolvent as aforesaid shall, at any time before he shall have obtained his discharge in the nature of a certificate herein-after mentioned, be entitled to or possessed of, in his own right, any government stock, funds, or annuities, or any of the stocks or shares in any public company, either in England, Scotland, or Ireland, or the territories under the government of the East India Company, it shall be lawful for the said court, upon the application of any assignee, or any creditor of such insolvent whose debt or demand against such insolvent shall have been

Government stocks, funds, &c. standing in name of insolvent to be transferred to name of assignee.

admitted or established in the matter of the said insolvency, whenever it shall deem fit so to do, to order all persons whose act or consent is thereto necessary to transfer the same into the name or names of such assignee or assignees as aforesaid; and all such persons whose act or consent is so necessary as aforesaid are hereby indemnified for all things done or permitted pursuant to such order: Provided always, that in all transfers into the name or names of any such assignee or assignees the transferee or transferees shall be described as assignee or assignees of the estate and effects of the insolvent; and no dividend shall be paid to, nor any future transfer made by, any person of any such stock, funds, annuities, or shares, except under a power of attorney, in the usual form required for the receipt of dividends upon or transfer of such stock, funds, annuities, and shares respectively, duly executed by such assignee or assignees, and attested by two credible witnesses, one of whom shall be an officer of such court for relief of insolvent debtors, and to which attestation the seal of such court shall be affixed.

Persons holding property of insolvent, except stocks, &c. or indebted to him, may be ordered to transfer such property, and make payment of such debts, to the assignee.

XXVI. And be it enacted, that in case any person shall, after any such insolvent shall have petitioned for his discharge under this Act, or have been adjudged to have committed an act of insolvency, and before the said insolvent shall have obtained his discharge in the nature of a certificate as herein-after mentioned, be possessed of or have under his power or control any property whatsoever of such insolvent, other than any such government stock, funds, or annuities as aforesaid, or other than any of the stock or shares in any public company, either in England, Scotland, or Ireland, or within the limits aforesaid, or to which such insolvent may be in any way entitled, either under any trust, express or implied, or otherwise held for his use and benefit, or in case any such person shall be at any such period indebted to such insolvent, it shall be lawful for the said court, upon the application of any assignee, or any creditor of such insolvent whose debt or demand shall have been admitted or established in the matter of the said insolvency, to cause notice to be given to such person, directing him to hold and retain the said property till the said court shall make further order concerning the same; and thereupon it shall be lawful for the said court further to order such person to deliver over such property, and to pay such debts as aforesaid, or any part thereof, to the assignee or assignees of the estate and effects of such insolvent, for the general benefit of the creditors of such insolvent; and such delivery and payment shall be made accordingly in obedience to such order, and such person shall by such payment and delivery, so made in pursuance of such order of the said court, be discharged in respect of such property and debts against all persons whatsoever, to all intents and purposes.

If insolvent

XXVII. And be it enacted, that if any such insolvent as aforesaid shall, at

any time before he shall obtain his discharge in the nature of a certificate as herein-after mentioned, hold any public office, appointment, or benefice, civil, military, or ecclesiastical, not saleable, or shall be in any situation or employment whatsoever in respect of which he shall receive any salary or emolument, or shall be in the receipt of any pension, then it shall be lawful for the said court to order the said insolvent to pay such proportion of his receipts therefrom to his assignee as the said court shall think right; and all saleable offices, appointments, or benefices shall vest, by virtue of the vesting order as aforesaid, in the official assignee, in trust for the creditors of such insolvent as aforesaid.

hold any offices, &c. not saleable, he may be ordered to pay a proportion of receipts to assignee.

Saleable offices shall vest in assignee.

XXVIII. And be it enacted, that it shall be lawful for the assignee or assignees, with the leave of the court first obtained, upon application to such court, and by and with such notice to such creditors as it shall think fit to direct, to take such reasonable part of any debts due to the insolvent as may by composition be gotten, in full discharge of such debts, and to submit to arbitration any difference or dispute between the assignee or assignees and any other person or persons for or on account or by reason of any thing relating to the estate and effects of such insolvent.

Power of assignee, with leave of court, and on notice to creditors, to take composition, and to submit disputes, &c. to arbitration.

XXIX. And be it enacted, that it shall be lawful for the assignee or assignees, with leave of the court first obtained, to commence, prosecute, or defend any suits or actions at law or in equity which the insolvent might have commenced and prosecuted or defended, and to defray the costs to which he may be put in respect of such suits or actions out of the proceeds of the estate and effects of the insolvent; and if there be any partner of the insolvent who hath not joined in the petition, it shall be lawful for the court to authorize the assignee to join such partner with himself as plaintiff in such suit or action; and if such partner shall execute any release of the debt or demand for which such suit or action is brought, the release shall be void: Provided always, that such partner, if he shall take no part in the prosecution or defence of such suit or action, shall not be liable to pay costs in respect of the same; and it shall be lawful for such court, upon the application of such partner, to direct that he may receive so much of the proceeds of such action or suit as the said court shall direct.

Powers of assignee to institute and defend actions and suits.

Proviso as to persons in partnership with insolvent joining in actions, &c.

XXX. And be it enacted, that all powers vested in any such insolvent which he might lawfully execute for his benefit shall be and are hereby vested in the assignee or assignees of the real and personal estate of such insolvent or insolvents by virtue of this Act, to be executed by his assignee or assignees for the benefit of his creditors.

All powers vested in insolvent, exercisable for his own benefit, to be vested in assignee for benefit of creditors.

XXXI. And be it enacted, that the assignee or assignees shall, with all convenient speed, make sale of the property and effects of the insolvent;

Assignee to make sale of insolvent's estate.

Court may delay or postpone the sale.

Provided nevertheless, that the said court shall have full power and authority, upon the application of any insolvent, or any creditor or mortgagee of such insolvent, to delay or postpone the sale of any property, and to make such other order respecting the same as to such court shall seem meet.

Discretionary power vested in the court to defer sales where they would be prejudicial, and give directions for management of property;

XXXII. And whereas insolvents may be entitled to annuities for their own lives, or other uncertain interests, or to reversionary or contingent interests, or may have made advances of money for the cultivation of lands, or may be interested in property in other ways under such circumstances that an immediate sale and payment of their debts may be very prejudicial to them and to their creditors, and it may be proper in some cases to defer the sale of their property, or some parts thereof, and to put it under temporary management, or to authorize the raising of money by way of mortgage or otherwise for payment of the debts or part of the debts of an insolvent, and for defraying the expenses attending the execution of this Act, instead of selling for such purpose: Be it enacted, that in all such cases it shall be lawful for the said courts for the relief of insolvent debtors at any time to take into consideration all circumstances affecting any property of the insolvent which shall have been vested under the provisions of this Act; and if it shall appear to any court that it would be reasonable to make any special order touching the same, it shall be lawful for such court so to do, and to direct that so much of the said property as it may be expedient not to sell immediately according to the provisions of this Act shall not be so sold, and from time to time to order and direct in what manner such property shall be managed for the benefit of the creditors of such insolvent, until the same can be properly sold, or until payment of such creditors be effected according to the provisions of this Act, and to make such order touching the sale or disposition or management of such property as to such court for relief of insolvent debtors may seem reasonable and beneficial, and upon such terms and conditions with respect to the allowance of interest on debts not bearing interest, or other circumstances, as to such court shall seem just; and if it shall appear that the debts of any such insolvent can be discharged by means of money raised by way of mortgage or otherwise on any of the said property of the said insolvent, instead of raising the same by sale, it shall be lawful for the said court so to order, and to give all necessary directions for such purpose, and generally to direct all things which may be proper for the discharge of the debts of such insolvent in such manner as may be most consistent with the interest of such insolvent and of his creditors.

also for raising money by way of mortgage to pay debts, or for otherwise discharging debts.

Assignees to keep accounts of the estates of insolvents,

XXXIII. And be it enacted, that the assignee or assignees shall keep accounts of the property, debts, and credits of such insolvent, whether separate or joint, and of all property of the insolvent received by him or them, and all

payments made by him or them, which accounts any creditor shall be at liberty to inspect at all seasonable times; and it shall be lawful for the courts for the relief of insolvent debtors to summon the assignee or assignees before them, and require him or them to produce all books, papers, deeds, writings, and other documents, in his or their possession, relating to the matters of such insolvency; and upon his or their default it shall be lawful for such courts respectively to issue an attachment or attachments against the party or parties so making default, and to cause such assignee or assignees to be brought before them, and to commit such assignee or assignees to prison until he or they shall submit to the court by which he or they shall have been summoned.

with liberty for creditors to inspect the same.

Assignees may be ordered to produce books, &c. and committed for refusal.

XXXIV. And be it enacted, that if any assignee shall knowingly retain in his hands, for his own benefit, or employ for his own benefit, or knowingly permit any co-assignee so to retain or employ any sum, part of the estate of the insolvent, or shall knowingly omit to invest or pay or deposit any money or other property in the manner in which it may be his duty for the time being, according to law, to invest, pay, or deposit the same, every such assignee shall, besides being liable to be removed therefor from his office of assignee for misconduct, be liable to be charged in his accounts with such sum as shall be equal to interest at the rate of twelve per centum per annum on the amount or value of such money or property, or if any higher interest shall have in fact been made, then to the extent of the interest actually made, and five per centum per annum in addition thereto on all such money or property, for the time during which he shall have so retained or employed the same, or permitted the same to be so retained or employed as aforesaid, or during which he shall have so neglected to invest or deposit the same as aforesaid; and the court is hereby required to charge every such assignee in his accounts accordingly, and the amount so charged shall constitute a debt from him to such estate; and if any assignee indebted to the estate of which he is such assigned in respect of money so retained or employed by him as aforesaid become insolvent, his discharge under the provisions of this Act shall only have the effect of freeing his person from arrest and imprisonment on account of such debt; but his future effects, excepting the wearing apparel, bedding, and other herein-before mentioned articles excepted out of the operation of the vesting order aforesaid, and not exceeding the value herein-before limited in that behalf, shall remain liable for so much of his debts to the estate of which he was assignee as shall not be paid by dividends under such insolvency, together with legal interest for the whole amount.

Penalty on assignee improperly dealing with insolvent's estate.

If assignee indebted to estate become insolvent, his discharge shall not free him from liability to pay the whole debt and interest out of his future effects.

XXXV. And be it enacted, that after the petition and schedule of any insolvent shall have been filed in any court for the relief of insolvent debtors

After petition and schedule filed, and

adjudication, notice to be given to creditors, and published.

and after any such adjudication of an act of insolvency shall have been pronounced as aforesaid, the court shall cause notice thereof to be given to any creditor or creditors of the insolvent at whose suit he may be detained in custody, or the attorney or agent of such creditor or creditors, and to the other creditors resident within the limits of the territories of the East India Company, as the court shall direct; and notice to the like effect shall be twice at least published in the gazette of the presidency where such court shall be holden; and the court in such notice shall appoint a day and place for the hearing of the matters of the petition of such insolvent, and for hearing any other applications in the matter of the insolvency.

Court in such notice to appoint a day for hearing.

Course of proceeding on hearing.

XXXVI. And be it enacted, that upon the day so appointed by the court as aforesaid for such hearing as aforesaid, or on any future day to which such hearing may be adjourned, it shall be lawful for the insolvent and for any creditor of the insolvent, as the case may require, to be heard, either by himself or by counsel, in support of or in opposition to the petition of the insolvent, or on any other application relating to the insolvent or his estate; and it shall also be lawful for the court, on those or any other occasions, and from time to time as often as occasion may require, to order any insolvent who is in custody to be brought before it, and to summon any insolvent who shall not be in custody, and the wife of any insolvent, and any other person, whether a creditor or not, who may be known or suspected to have any of the estate or effects of the insolvent in his or her possession, or any person who may be suspected to be indebted to the insolvent, or any person who is believed to be capable of giving any information respecting the estate and effects of such insolvent, or respecting his acts, dealings, or conduct, or any information which will more easily enable the court to dispose of the estate and effects of the insolvent for the benefit of his creditors; and it shall also be lawful for the court to examine any insolvent or his wife, or any other such person, whether a creditor or not, in the same way as any other witnesses are examined in her Majesty's supreme court at that presidency in any suits at law or in equity, or according to any rules which may be made for the practice of the said courts for the relief of insolvent debtors respectively, or for giving effect to this Act, in the manner which is herein prescribed: Provided always, that every witness summoned to attend before the court shall have his necessary expenses tendered to him, in like manner as by law is required upon service of a subpœna to a witness in an action at law.

Court may order insolvent and others to attend and be examined.

Expenses of witnesses.

Court may admit affidavit instead of personal appearance in case of sickness,

XXXVII. Provided also, and be it enacted, that in all cases where any creditor or other person shall be prevented or hindered from attending the said court, by reason of sickness or infirmity, or the distance of his residence, or other reasonable cause, to be admitted by the court, it shall be lawful for the

court to receive the affidavit or solemn affirmation of such creditor or other person, and also, if the court shall think fit, to permit interrogatories to be filed for the examination or cross-examination of any such person.

&c and permit interrogatories to be filed.

XXXVIII. And be it enacted, that when any petition shall have been presented under this Act by an insolvent, or any adjudication of an act of insolvency shall have been pronounced as aforesaid, it shall be lawful for any person to whom any such insolvent shall be indebted or liable in respect of any debt or demand which would have entitled such person to be inserted as a creditor in the schedule of such insolvent to make claim upon the estate of such insolvent, and to prove his debt or demand, whether due by such insolvent solely, or jointly with any other person or persons; and such person shall be entitled to and receive a dividend thereon rateably with the other creditors of the said insolvent, although the name of such creditor may have been wholly omitted by the said insolvent in his or her schedule, or may have been inserted for a smaller amount than the debt or demand really due to such person; and where any objection to the existence or amount of such debt or demand shall be made by such insolvent, or any creditor, such court shall hear the same, and may make such order thereon as may seem meet and just.

Creditor whose name is not included in the schedule may claim and prove his debt, and receive dividends thereon.

XXXIX. And be it enacted, that when there has been mutual credit given to the insolvent and any other person or persons, one debt or demand may be set against the other.

Mutual demands may be set off against each other.

XL. And be it enacted, that all such debts, dues, and claims as might be proved under a fiat of bankruptcy bearing even date with the insolvent's petition or the adjudication (as the case may be), according to the provisions of the said Act passed in the sixth year of the reign of his late Majesty King George the Fourth, intituled "An Act to amend the law relating to bankrupts," or any other statute or statutes now in force or hereafter to be passed relating to bankrupts, may also be proved as is herein-before mentioned, in the same manner and subject to the like deductions, conditions, and provisions as in the said statutes are or may be set forth and prescribed.

All debts, &c. proveable under fiat in bankruptcy pursuant to 6 Geo. 4. c. 16, &c. may be proved under insolvency.

XLI. And be it enacted, that whenever it shall appear to the court, either by the accounts of any assignee or assignees, or otherwise, to be probable that a dividend may be beneficially made amongst the creditors, it shall be lawful for the court to appoint a day for the purpose of making a dividend, and to cause notice thereof to be given in such manner as it shall direct; and on the day appointed the assignee or assignees shall deliver in, upon oath or solemn affirmation, as the case may be, a true statement in writing of all money received by him or by them respectively, and when, and on what account, and how, the same have been employed; and the court shall examine such statement, and compare the receipts with the payments, and shall ascertain what

Power to court to appoint days for purpose of making dividends, giving notice of the same.

Proceedings thereupon.

balances, if any, have been from time to time in the hands of such assignee or assignees respectively; and on the said day all parties interested shall be heard, and all objections to the schedule of the insolvent, and to the accounts or conduct of the assignee or assignees; and any claims of any creditors which shall not have been previously determined shall be heard and determined either by such court immediately, or on a reference to the examiner or other officer of the court; and it shall be lawful for the court to examine the insolvent, the assignees, and any witnesses, either on oath or affirmation, and either at that time to declare a dividend, and to direct that the same shall be paid by the assignee or assignees, or to postpone such declaration or direction of the same until a further hearing, and to make such order as shall be just.

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Unless the court is satisfied that all the estate of the insolvent is within the limits of the charter and all debtors and creditors reside therein, assignee shall reserve one third part of estate undivided until after twelve months notice to be published in the London Gazette, and shall divide two thirds only.

XLIII. PROVIDED always, and be it enacted, that unless it shall appear to the satisfaction of such court that all the property of the insolvent is situate, and all the debtors and creditors resident, within the limits of the charter of the East India Company, then, until the expiration of twelve calendar months from a notice, to be published in the London Gazette, of the petition or adjudication of or against any insolvent, as herein-after is mentioned, the assignee or assignees shall reserve the full amount of one third part of all the property of the said insolvent which shall have been got in, and shall make a dividend amongst the creditors of the said insolvent to the amount of the remaining two third parts only, which third part so to be reserved as aforesaid shall in the meantime be invested or disposed of in such way as such court shall order, and shall not remain in the hands of such assignee or assignees; and at the expiration of the said term of twelve calendar months it shall be lawful for the assignee or assignees of such insolvent to apply to such court for a return of the said third part so reserved as aforesaid, in order that the same may be so distributed amongst the creditors as to place them all upon an equal footing; and upon such third part so reserved as aforesaid being restored to such assignee or assignees, such assignee or assignees shall forthwith proceed to take an account of the debts of the said insolvent admitted and established in the said court, and of the sum or sums which shall or may have been paid by way of dividend to any of such creditors, and shall distribute the fund then in the hands of such assignee or assignees, so as to place all the creditors of the said insolvent, whether Indian or British or foreign, upon a just and equal footing, and so as that every creditor whose debt or claim shall be admitted or established in the said court shall receive a rateable and proportional part of the assets of the said insolvent, according to the amount of his debt, without reference to the time at which such debt shall have been claimed.

At expiration of twelve months such one third to be divided, so as to place all creditors on an equal footing.

XLIV. And be it enacted, that if any creditor whose claim shall have been admitted or established in any court for the relief of insolvent debtors shall not appear, by himself, his attorney or agent, at the making of any dividend, nor shall make application to receive his share thereof, the assignee or assignees shall certify the same to such court at its first sitting after the making of the dividend, and it shall be lawful for the court to direct in what manner, and by whom, and upon what conditions, the money so due to such creditor shall be kept for or paid to him, or to his lawfully constituted attorney or agent.

If creditors do not appear to claim their dividends, court may order payment or deposit thereof in such way as it shall see fit.

XLV. And be it enacted, that if any assignee or assignees shall neglect to pay any dividend which shall have been ordered by any court for the relief of insolvent debtors, or in any other respect shall neglect or commit any breach of his or their duty as assignee or assignees, it shall be lawful for such court, having first summoned the assignee or assignees to appear before it and answer the same, to order the payment of such dividend, with interest at such rate as the court shall award, not exceeding six pounds per centum per annum, and to order the assignee or assignees to make such compensation to any party injured by such neglect or breach of duty as to such court shall seem fit, and in default of obedience thereto to commit such assignee or assignees to the common gaol, there to remain without bail until he or they shall obey the order of such court, and to levy by distress and sale of the offender's goods as much as shall be sufficient to satisfy the order of the court.

Power of court over assignees neglecting to pay dividends or committing breach of duty as such assignees.

XLVI. And be it enacted, that if it shall appear to any of the said courts for the relief of insolvent debtors that any such insolvent as aforesaid is indebted to any servant or clerk of such insolvent in respect of wages or salary of such servant or clerk, it shall be lawful for the said court to order so much as shall be due as aforesaid, not exceeding six months wages or salary, to be paid to such servant or clerk out of the estate of such insolvent, and such servant or clerk shall be at liberty to prove and receive dividends for any sum exceeding such last-mentioned amount.

Court may award six months wages, &c. to servants or clerks, with power to prove for any further sum due.

XLVII. And be it enacted, that upon application to the court for that purpose, it shall be lawful for the court to declare that the insolvent is entitled to his personal discharge under this Act, and to order the same accordingly, which order of discharge shall have the effect of protecting his person from arrest in respect of all demands inserted in his schedule or established in the same court; and if such insolvent be in custody, it shall be lawful for the court to order his immediate discharge from custody accordingly, or to dismiss or give leave to amend the petition aforesaid, or to order the insolvent to amend his schedule, or to adjourn the hearing until a future day, or to make a reference to the examiner or other officer of the said court to make inquiry into any matter of account, or into the truth of the schedule or schedules, and to report thereon

Court may grant order of discharge, protecting insolvent, and may discharge him from custody, or dismiss, &c. the petition, or order him to amend his schedule, or adjourn the hearing, &c.;

court may remand or commit insolvent to prison, &c., and cancel or renew interim protection order, and order an allowance for maintenance.

to the court; and it shall also be lawful for the court to remand the insolvent to prison, if a prisoner, until a further hearing, or until a further time to be named in such order, or to commit the insolvent to custody for any debt or demand, if he shall not be in custody at the time of the hearing, and to cancel or renew any such order as is herein-before mentioned which may have been given for the purpose of affording interim protection to the insolvent from arrest, and to order and direct that the assignee shall make some reasonable allowance for maintenance of the insolvent until final order, the amount of which shall be fixed by the court, and shall not exceed five company's rupees per week; and the court by which any order of discharge shall be made upon any such hearing as is herein-before mentioned shall by such order direct that the assignee shall give such notice of such order as to the court shall seem fit and convenient.

Notice of order of discharge to be given.

Discharge to extend to any sums payable by insolvent, by way of annuity or otherwise, at any future time, &c. Persons who would be creditors if such sums were presently due entitled to be admitted creditors for present value of such sums, without prejudice to their securities. Discharge to extend to costs incurred before insolvency.

XLVIII. And be it enacted, that the discharge of any such insolvent as aforesaid shall and may extend to any sum or sums of money which shall be payable, by way of annuity or otherwise, at any future time or times, by virtue of any bond, covenant, or other security whatsoever, and to any sum or sums of money payable at a certain time, which time shall not have arrived at the time of the act of insolvency or petition of such insolvent; and that every person and persons who would be a creditor of such insolvent for such sum of money, if the same were presently due, shall be admissible as a creditor of such insolvent for the value of such sum of money so payable as aforesaid, which value the said court shall, upon application at any time made in that behalf, ascertain; and such creditor shall be entitled in respect of such value to the benefit of all the provisions made for creditors by this Act, without prejudice, nevertheless, to the respective securities of such creditor, excepting as respects such insolvent's discharge under this Act; and the discharge by virtue of this Act as to any debt or demand of any creditor of the insolvent shall be deemed to extend also to all costs incurred by such creditor before the insolvency in any action or suit for the recovery of the same, and to any process of contempt for enforcing the same, and to all costs which the insolvent would be liable to pay in clearing such contempt; and that all persons as to whose demands for any such costs as aforesaid the discharge of the insolvent is so to extend shall be deemed creditors of the insolvent in respect thereof, and entitled in respect thereof to the benefit of all the provisions made for creditors by this Act, subject nevertheless to ascertaining the amount of such demands by taxation or otherwise.

Suits against the insolvent pending at the time of insolvency,

XLIX. And be it enacted, that if after the filing of any insolvent's schedule in the said court for the relief of insolvent debtors, and before such insolvent shall obtain his discharge in the nature of a certificate herein-after

mentioned, any suit or action shall be pending against the insolvent, his heirs, executors, or administrators, in any court within the limits aforesaid, or any execution or process shall be sued out or issued from any of the said courts, or be enforced against such insolvent, his heirs, executors, or administrators, for or in respect of any debt or demand admitted in the schedule of the insolvent, or disputed as to amount only, the said court in which such action or suit shall be pending, or from which such execution or process as aforesaid shall issue, on proof to its satisfaction that such action or suit, execution or process, is in respect of the debt or demand aforesaid, may stay the proceedings in such suit or action, so far as the same respects the said debt or demand, until further order of the said court, and may set aside or suspend such execution or process, so far as the same respects the said debt or demand, until further order of the said court, as it shall think fit; and in such case the plaintiff shall pay all costs reasonably incurred by such insolvent, his heirs, executors, or administrators, by reason of such proceedings, and such execution and process as aforesaid, subsequent to such plaintiff's having notice of his debt or demand being included in such schedule as aforesaid: Provided always, that no prisoner whose estate shall by an order under this Act have been vested in the said official assignee shall after such order, and whilst the same is in force, be discharged out of custody, otherwise than under the provisions of this Act, as to any action, suit, or process, or concerning any demand, with respect to which an order of discharge can, under the provisions of this Act, be made; nor shall such action, suit, or process abate, be discontinued, terminated, or dismissed, or the plaintiff be in any way subject to pay costs, by reason merely of his not having taken any further step in such cause, suit, or process, or his forbearing to proceed with the same, after such vesting order as aforesaid.

and all proceedings therein, may be stayed, so far as relate to debts contained in insolvent's schedule.

No prisoner whose estate is vested in assignee to be discharged, as to certain actions, &c. except under this Act.

L. And be it enacted, that in case it shall appear to any court for the relief of insolvent debtors that any such insolvent has fraudulently, with the intent to conceal the state of his affairs, or to defeat the objects of this Act, destroyed or otherwise wilfully prevented or purposely withheld the production of any book, paper, or writing, relating to such of his affairs as are subject to investigation under this Act, or kept or caused to be kept false books, or made fails entries in, or withheld entries from, or wilfully altered or falsified, any such book, paper, or writing, or that such insolvent has fraudulently, with intent of diminishing the sum to be divided among his creditors, or of giving an undue preference to any of the said creditors, discharged or concealed any debt due to or from the said insolvent, or made away with, charged, mortgaged, or concealed any part of his property, of what kind soever, such court shall have power to adjudge that the insolvent shall be imprisoned for a period or periods not exceeding two years in the whole, as such court shall direct, and to declare

Punishment by imprisonment of insolvent fraudulently destroying, withholding, or falsifying books, or giving undue preference, or making away with or concealing property.

him entitled to his discharge as aforesaid at the expiration of the term of imprisonment to which he shall be sentenced, and by warrant under the seal of the court to order him to be arrested and committed to prison, and there to be detained accordingly.

Insolvents contracting debts fraudulently, or by breach of trust or false pretences, or vexatiously defending suits, or indebted for damages recovered in certain actions, or contracting debts by gross misconduct, may be discharged immediately except as to such debts, and as to them after being in custody for any period not exceeding two years.

LI. And be it enacted, that in case it shall appear to any such court that such insolvent shall have contracted any of his debts fraudulently, or by means of breach of trust, or by means of false pretences, or without having any reasonable or probable expectation at the time when contracted of paying the same, or shall have fraudulently or by means of false pretences obtained the forbearance of any of his debts by any of his creditors, or shall have put any of his creditors to any unnecessary expense by any vexatious or frivolous defence or delay to any suit for recovering any debt or any sum of money due from such insolvent, or shall be indebted in costs incurred in any action or suit vexatiously brought or defended, or shall be indebted for damages recovered in any action for criminal conversation with the wife, or for seducing the daughter or servant, of the plaintiff in such action, or for breach of promise of marriage made to the plaintiff in such action, or for damages recovered in any action for a malicious prosecution, or for a libel or for slander, or assault or battery, or malicious arrest, or in any other action for a malicious injury done to the plaintiff therein, or in any action of tort or trespass to the person or property of the plaintiff therein, wherein it shall appear to the satisfaction of such court that the injury complained of was malicious, or if it shall appear that the insolvent's whole debts so greatly exceed his means of providing for the payment thereof during the time when the same were in the course of being contracted, reference being had to his actual and expected property, as to show gross misconduct in contracting the same, then and in every such case it shall and may be lawful for such court to adjudge that such insolvent shall be so discharged and so entitled as aforesaid forthwith, excepting as to any debts, sum or sums of money, or damages, to be specially mentioned in the order, and as to such debt or debts, sum or sums of money, or damages, to adjudge that such insolvent shall be so discharged and so entitled as aforesaid as soon as he shall have been in custody at the suit of the person or persons who shall be creditor or creditors for the same respectively for such period or periods, not exceeding two years in the whole, as such court shall direct.

Where insolvent is ordered to be discharged after imprisonment at a future period, he shall be liable to be detained, arrested, and

LII. And be it enacted, that in all cases where it shall have been ordered that any such insolvent shall be discharged from imprisonment as aforesaid at some future period, such insolvent shall be subject and liable to be detained in prison, and to be arrested and charged in custody, at the suit of any one or more of his creditors with respect to whom it shall have been so ordered, at any time before such period shall have arrived, in the same manner as he would

have been subject and liable thereto if this Act had not passed: Provided nevertheless, that when such period shall have arrived such insolvent shall be entitled to the benefit and protection of this Act, notwithstanding that he may have been out of actual custody during all or any part of the time mentioned in such order, by reason of such insolvent not having been arrested or detained during such time, or any part thereof.

charged in custody, during such period, at the suit of creditors as to whom it is so ordered.

LIII. And be it enacted, that in all cases where such insolvent shall, upon such order as aforesaid, be liable to further imprisonment at the suit of his creditors, or any of them, it shall be lawful at any time for the court by which such order shall be pronounced, on the application of such insolvent, to order such creditor or creditors at whose suit he shall be so imprisoned to pay to such insolvent such sum or sums, not exceeding the rate of five Company's rupees by the week in the whole, at such times, and in such manner, and in such proportion, as such court shall direct, and that in failure of payment thereof, as directed by such court, such court shall order such insolvent to be forthwith discharged from custody at the suit of the creditor or creditors so failing to pay the same.

Where insolvent liable to further imprisonment at the suit of creditors, court may order detaining creditor to allow him a sum for maintenance.

LIV. And be it enacted, that whenever any creditor or creditors opposing such insolvent's discharge shall prove to the satisfaction of any such court that such insolvent has done or committed any act for which he may be liable to remain in such custody as aforesaid, it shall be lawful for such court to order the taxed costs of such opposition to be paid to such opposing creditor or creditors out of the estate and effects of such insolvent, by his or her assignee or assignees, before any dividend made thereof; and in all other cases of opposition to an insolvent's discharge being substantiated or effectual, it shall be lawful for such court to adjudge in like manner; and that in case it shall appear to such court that the opposition of any creditor to any such insolvent's discharge was frivolous and vexatious, it shall and may be lawful for such court to award such costs to such insolvent as shall appear to be just and reasonable, to be paid by the creditors making such opposition, which shall be paid accordingly.

Creditor opposing discharge of insolvent to have his costs allowed him out of the estate in certain cases;

but if opposition be frivolous or vexatious, court may award costs against such creditor.

LV. And be it enacted, that where in the matter of any such petition heard before any such court any order shall have been made by such court for the discharge of any insolvent, such court shall also issue a warrant or warrants to the gaoler accordingly, ordering the discharge of such insolvent from custody as to any arrest or detainers under which he may then be confined, or which may be lodged against him before he shall be out of custody, the same being for debts in respect of which such order of discharge shall have been made; and that every such order of discharge shall take effect as from the day on which it was pronounced; and that every such order may be made without

Where order has been issued for discharge of insolvent, the court may also discharge him as to any arrest or detainers that may be lodged against him for debts in respect of which such

order shall be made.

specifying therein any such debt or debts, or sum or sums of money, or claims as aforesaid, or naming therein any such creditor or creditors as aforesaid, excepting so far as shall be necessary in any case in order to distinguish between the creditors as to whom any such insolvent may be ordered so to be discharged as aforesaid forthwith, and the creditors as to whom he may be ordered to be so discharged at some future period: Provided nevertheless, that in all cases the arrest or detainer with respect to which any such insolvent shall have been ordered to be discharged out of custody, he being then in custody thereupon, shall be specified in the warrant of such court, to be delivered to the gaoler in that behalf.

Such order for discharge, except in cases of appeals, shall be final and conclusive, unless obtained fraudulently, in which case it may be re-heard and annulled.

LVI. And be it enacted, that every such order for discharge of any insolvent as aforesaid by any such court as aforesaid, except in cases of appeals, shall be final and conclusive, and shall not be reviewed by such court, unless such court shall thereafter see good and sufficient cause to believe that such order has been made on false evidence, or has been made by reason of an improper suppression of evidence, or of any false statements in the insolvent's schedule, or has otherwise been fraudulently obtained, in which case it shall and may be lawful for such court, upon the application of such insolvent, or of any creditor of such insolvent, to order such insolvent, upon due notice to be given to such persons and in such manner as the said court shall direct, to attend or to be brought up, and the said matter to be re-heard before the said court, who shall thereupon re-hear the same, and shall and may, if just cause shall appear, annul the original order made in such case, and shall have the same powers and authorities upon such re-hearing as upon an original hearing in pursuance of this Act, and may adjudicate in such matter accordingly; and thereupon, in case the former order in the said matter shall not be confirmed, such order, certificate, and warrant, so far as circumstances require, shall be made as required by this Act to be made in the case of the original order; and the said court shall and may, if necessary, remand the said insolvent to the same custody in which he or she was at the time of the former hearing, there to be subject to imprisonment as if the former order therein had not been made; and thereupon all detainers which were in force against such insolvent at the time of his or her former discharge from custody shall be deemed to be still in force against him or her, as if such former order had not been made; and the gaoler and keeper of the prison to which such insolvent shall be so remanded shall and is hereby required to receive such insolvent into his custody in pursuance of such remand, for doing which the order of remand in such case shall be his sufficient warrant; and where in any case such insolvent shall refuse or neglect to appear before such court according to such order for re-hearing as aforesaid, a copy whereof shall have been duly served on such insolvent,

Proceedings if order is annulled.

it shall and may be lawful for such court to order such insolvent to be apprehended and committed to custody to such prison, and to issue its warrant accordingly, and to cause such insolvent to be brought up for examination as often as to such court shall seem fit: Provided always, that where upon such re-hearing it shall appear to such court that such insolvent is not entitled to the benefit of this Act until some future period, according to the provisions herein contained, the said court shall and may, if it shall appear reasonable, adjudge the discharge of such insolvent at such future period, to be calculated without including the time during which such insolvent shall be out of custody since the time appointed for his or her discharge by such former order as aforesaid.

If order is issued erroneously, court may revoke, annul, suspend, or amend the same, and re-commit the prisoner.

LVII. PROVIDED always, and be it enacted, that if in any case an order for the discharge of any such prisoner shall have issued erroneously, and which is not pursuant to the intended order of the court in that behalf, it shall be lawful for the said court, on such error being shown to the court, to revoke such order, and to annul, suspend, or amend the same, and, if necessary, to re-commit such prisoner to his former custody, when by such order he shall have been discharged therefrom; and the gaoler or keeper of the prison to whose custody such prisoner shall be so re-committed is hereby required to receive such prisoner into his custody, according to such re-commitment, and thereupon all detainers which were in force against such prisoner at the time of such discharge as aforesaid shall be deemed to be still in force against him, as if such erroneous order had not issued.

On request of assignee, insolvent may at any time, although discharged, be further examined touching his estate. Insolvent refusing to appear, &c. may be committed.

LVIII. AND be it enacted, that it shall and may be lawful to and for the assignee or assignees from time to time, although an order for the discharge of the insolvent may have been made, to apply to the court that such insolvent may be further examined as to any matter or things relating to his estate and effects by such court, and thereupon it shall be lawful for the said court to order the same; and in case such insolvent shall neglect or refuse to appear before such court, at such time and place as shall be directed by such order, or shall refuse to be sworn, or to answer to such questions as shall be put to him relating to the discovery of his said estate and effects, then and in any of such cases it shall be lawful for such court by warrant to commit such insolvent to gaol, there to remain without bail or mainprize until such time as he shall submit himself to the order of such court in that behalf, and shall answer, upon oath or otherwise, as shall be required, to all such lawful questions as shall be put to him in pursuance of the same for the purposes aforesaid.

Where estate pays one third of insolvent's debts, or where a majority in

LIX. AND be it enacted, that whenever it shall appear that the estate of any insolvent which has come to the hands of his assignee has sufficed to pay one third of his debts admitted or established in the matter of the said

number and value of creditors consent, court may, on petition in form in schedule (E.), grant an order nisi for discharge of insolvent, appoint time for hearing, and direct notices to be given.

Notices to creditors resident without the limits of the charter.

insolvency, or that a majority in number and value of the creditors whose debts are admitted by the schedule, or established by proof, have consented to such application, it shall be lawful for the said court, at any time after the hearing of his petition, upon the application of the insolvent by petition, which may be in the form contained in the schedule (E.) to this Act annexed, with such variations as the case may require, to make an order nisi for his discharge in the nature of a certificate, and such order shall specify the creditors whose demands are thereby sought to be discharged, and shall appoint a time for the further hearing of the said petition, and shall direct such notice to be given of such order in the meantime as it shall think fit, and in case any of the creditors against whom such discharge shall be sought shall appear to the court to be resident without the limits of the charter of the East India Company, to cause notice of such order, or of so much thereof as may appear necessary, to be inserted in the gazette of the presidency; and the chief secretary of the government of the presidency shall thereafter, without delay, transmit copies of such gazettes containing such notice as aforesaid, by separate conveyances, to the court of directors of the East India Company, who shall, without delay, cause an extract from such gazette to be inserted in the London Gazette; and upon the further hearing of such petition it shall be lawful for the said court to make such order absolute, or to dismiss such petition, or to adjourn the further hearing thereof, or to make such order therein as shall be just; and such discharge, unless order shall be made to the contrary, shall extend to and shall discharge the insolvent personally, and also his after-acquired property, from the demands of all the creditors named in the said order nisi: Provided always, that such order shall not affect any creditor without the limits of the charter of the said East India Company, unless notice of the said order nisi shall have been directed to be given in the gazette in manner aforesaid, and a period of twelve calendar months shall have elapsed between the date of the said order nisi and the date of the said order to make the same absolute: Provided also, that such order shall not operate as a release or discharge of any person who was a partner with such insolvent, or jointly bound or liable with him.

Order on further hearing of petition.

Court may, upon application of insolvent trader, in form in schedule (F.), provided he has filed his schedule, make an order nisi for his discharge, appoint a time for hearing,

LX. And be it enacted, that it shall be lawful for any insolvent debtor, being such trader as herein-before is mentioned, who shall have presented a petition under this Act, or as to whom an adjudication that he has committed an act of insolvency shall have been made under this Act, provided he shall have filed his schedule, to apply to the said court by petition, which may be in the form contained in the schedule (F.) to this Act annexed, with such variations as the case may require; and that it shall be lawful for the said court, upon such petition, to make an order nisi for his discharge in the nature

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of a certificate, and to appoint a time for the further hearing of the said petition, and to direct such notices to be given of such order in the meantime as it shall think fit, and in case any of the creditors against whom such discharge shall be sought shall appear to the court to be resident without the limits of the charter of the East India Company, to cause notice of such order to be inserted in the gazette of the presidency; and the chief secretary of the government of the presidency shall thereafter, without delay, transmit copies of such gazettes containing such notice as aforesaid, by separate conveyances, to the court of directors of the said East India Company, who shall, without delay, cause an extract from such gazette containing such notice to be inserted in the London Gazette; and upon the further hearing of the said petition it shall be lawful for the said court to make such order absolute, or to dismiss such petition, or to adjourn the further hearing thereof, or to make such order therein as shall be just; and such discharge, unless such order shall be made to the contrary, shall extend to and shall discharge the insolvent personally, and also his after-acquired property, from all demands which would be discharged by a certificate under the bankrupt laws granted under a fiat bearing even date with the insolvent's petition, or with the adjudication, as the case may be: Provided always, that such order shall not affect any creditor without the limits aforesaid, unless notice of the said order nisi shall have been directed to be given in the London Gazette in manner aforesaid, and a period of twelve months shall have elapsed between the date of the said order nisi and the date of the said order to make the same absolute: Provided also, that such order shall not operate as a release or discharge of any person who was partner with such insolvent, or jointly bound or liable with him.

and direct notices to be given.

Notice to creditors resident without the limits of the charter.

Order on further hearing of petition.

LXI. And be it enacted, that if any such insolvent, his heirs, executors, or administrators, shall, after such order for discharge in the nature of a certificate under this Act as aforesaid, be sued or arrested either on mesne or final process, or execution shall issue against his or their property, for any debt, claim, or demand from which the said insolvent shall have been discharged by such order, on his or their application to any court having power to stay such proceedings, or to discharge from such arrest, or to set aside such execution, and upon proof to the satisfaction of such court of such order, and that the debt or claim for which such proceedings are had is the same from which the said insolvent has been discharged by such order as aforesaid, such proceedings shall be stayed, and he or they shall be discharged from such arrest, and such process of execution shall be set aside, and all further proceedings in the suit in which such arrest or such execution was shall also be stayed, and the said court shall have power to award costs to the said insolvent, or his heirs executors, or administrators, as aforesaid, in case the said proceedings shall

If insolvent discharged by such order be again sued in respect of former debts, court may, on his application, order proceedings to be stayed, and award costs.

appear to the said court to have been taken after notice of the said order, and without any reasonable cause for impeaching the same, or to have been otherwise oppressive or vexatious.

Nothing in this Act to affect debts, penalties, &c. due to the Crown.

LXII. PROVIDED always, and be it enacted, that no debt due to our sovereign lady the Queen, nor any fine, penalty, or forfeiture whatsoever, nor any recognizance whereby a debt is acknowledged to the Queen, nor any debt due on account of any fine, penalty, or forfeiture, or any estreat, shall be deemed or taken to be such a debt or debts as to entitle any person or persons to petition as is before mentioned, nor shall any person be entitled to receive any dividend for the same under this Act, nor shall any such fines, penalties forfeitures, recognizances, debts, or estreats be in any way discharged or affected by any thing done under this Act, otherwise than they might and would have been discharged or affected if this Act had not been passed.

Special provisions as to insolvent married women;

LXIII. AND be it enacted, that the provisions of this Act shall extend to married women, and that the order vesting the estate and effects of such married woman in the official assignee shall extend to and operate upon her interest in any property, real or personal, in possession, reversion, remainder, or expectancy, subject to any rights of her husband therein, and to all property over which she shall have any beneficial power of disposition, notwithstanding her coverture, to the extent of the benefit which she might acquire therein by the exercise of such power; but that the same shall not extend to her wearing apparel, bedding, and other such necessaries, not exceeding in the whole the value of two hundred Company's rupees: Provided always, that the discharge of any married woman under the provisions of this Act shall not extend to discharge her husband from any debt in respect of which his wife shall be so discharged, but such debt, as far as the same shall remain unpaid and unsatisfied, shall be chargeable upon and in force against such husband, as fully to all intents and purposes as if his wife had not obtained such discharge.

and as to insolvent debtors becoming lunatics.

LXIV. AND be it enacted, that if any such prisoner for debt as aforesaid shall be or become of unsound mind, and be therefore incapable of taking the benefit of this Act in such manner as he might have done if of sound mind, the gaoler or keeper of the prison wherein such prisoner shall be shall give information thereof to the court for the relief of insolvent debtors of the presidency wherein such prison shall be situated, which court may thereupon proceed to inquire touching and respecting the state of the prisoner's mind, by examination of witnesses upon oath or solemn affirmation, or by such other means as it shall think fit; and if such court shall conclude that the prisoner is of unsound mind, it shall be lawful for such court, at the instance of any person on behalf of such prisoner, to order notice to be twice inserted in the

gazette of such presidency, and in such notice to specify and direct that application shall be made to such court for the discharge of such prisoner on a day to be specified in such notice, being twenty days at least from the first time of publication of such notice; which notice, together with service of the notice on the creditor or creditors at whose suit such prisoner shall be detained in custody, or his, her, or their attorney, shall be deemed sufficient to authorize such court to proceed to the discharge of such prisoner, and such court shall proceed accordingly, and discharge such prisoner: Provided always, that all and every the estate, right, title, interest, in law and equity, real and personal, power, benefit, and emolument whatsoever, which would vest in the official assignee under a vesting order in the case of a petition by such insolvent if he were of sound mind, shall, by force and virtue of the order for the discharge of such prisoner, be vested in the official assignee in the manner and for the purposes herein-before mentioned.

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Affidavits and affirmations may be sworn, &c. before courts, and commissioners, &c. appointed for that purpose, &c.

LXVIII. And be it enacted, that affidavits and affirmations to be used before any court for the relief of insolvent debtors, or any officer of such court, may be sworn and affirmed before such court, or any commissioner or other person appointed by such court for that purpose, or any judge or commissioner for taking affidavits in any of her Majesty's courts of record within the limits of the said East India Company's charter, or before any . . . . master extraordinary in Chancery in England or Ireland, or any magistrate authorized to take affidavits or affirmations in Scotland.

Penalty for perjury, or for forging or counterfeiting the seal of any court.

LXIX. And be it enacted, that if any person, in any proceeding, examination, affidavit, or affirmation, had or taken under this Act, shall wilfully and corruptly swear or affirm falsely, or shall forge or counterfeit the seal of any of the said courts, or knowingly concur in using any such forged or counterfeit seal for the purpose of authenticating any proceedings or document, it shall be lawful for any court before which any such person shall be convicted of any such offence by due course of law to order and adjudge such person to be transported to such place and for such term as the court shall direct, or in either case to order and adjudge that such person shall be imprisoned and fined, or imprisoned or fined only, for such time, and to such amount, and in such manner, as the same court shall direct.

Penalty on insolvent, &c. for embezzlement or concealment, &c. of effects, books, papers, &c.

LXX. And be it enacted, that if any insolvent who shall have filed a petition for relief, or against whom any such adjudication as aforesaid of an act of insolvency shall have been made, in any of the said courts for the relief of insolvent debtors in India, or any other person, shall wilfully and fraudulently embezzle or conceal or remove any part of the real and personal estate or effects of such insolvent, or any books of account, papers, or writings relating

thereto, with intent to defraud his creditors, or shall destroy, alter, mutilate, or falsify any of his books, papers, writings, or securities, or make or be privy to the making of any false or fraudulent entry in any book of account or other document, with intent to defraud his creditors, it shall be lawful for any court before which any such person shall be convicted of any such offence by due course of law to order and adjudge that such person shall be transported to such place and for such term of years as the said court shall direct, or to order and adjudge that such person shall be imprisoned and fined, or imprisoned or fined only, for such time, and to such amount, and in such manner, as the same court shall direct.

Application of fines imposed for the foregoing offences for benefit of creditors injured by such offences, on application of assignee within one year.

LXXI. And be it enacted, that whenever any person or persons shall have been ordered and adjudged, under the provisions of this Act, to pay any fine for any forgery or perjury, or embezzlement or concealment, or any other such offence as lastly herein-before is mentioned, and such fine shall have been paid, it shall be lawful for any assignee or assignees in whom the estate and effects of any insolvent or insolvents shall be duly vested according to the provisions of this Act to apply to the court by which such fine shall have been imposed; and if it shall be proved to the satisfaction of the same court that the creditors for whose benefit the said assignee or assignees shall hold in trust the said estate and effects have been defrauded, or have incurred loss, by means of such forgery, perjury, embezzlement, concealment, or other offence as aforesaid, the said court by which the said fine shall have been imposed may direct the same to be paid, after deducting the costs of prosecution, to the said assignee or assignees, for the use and benefit of the said creditors: Provided always, that if no such application shall be made by such assignee or assignees within one year after any such fine shall have been paid it shall be lawful for the court by which such fine shall have been imposed to appropriate, apply, and to pay over such fine to such uses, purposes, and persons, and in such manner, as any other fine imposed by the same court for any other crime or misdemeanor may be lawfully appropriated, applied, and paid over.

Any person interested in proceedings before the court may, on making a deposit, require the evidence, &c. to be taken down by a sworn officer of the court. If applicant doesnot appeal in one month, ex-

LXXII. And be it enacted, that any person who shall be interested in any proceeding of any of the said courts for the relief of insolvent debtors, upon depositing with the proper officer of the court a sum of money, of which the amount shall be fixed by the court, may require that the whole of the evidence relating to any such proceeding may be taken down in writing by a sworn officer of the court, and the same shall be done accordingly; and in case such person shall not within one calendar month thereafter present a petition of appeal as is herein-after directed, it shall be lawful for the court in which such evidence shall have been so taken down in writing as aforesaid to pay the reasonable costs and expenses thereof out of the money which shall have been

so deposited as aforesaid, returning the surplus, if any, to the person who shall have deposited the same.

pense may be paid out of deposit.

LXXIII. And be it enacted, that it shall be lawful for any person who shall think himself aggrieved by any adjudication, order, or proceeding of any such court for the relief of insolvent debtors to present, within one calendar month thereafter, a petition to the supreme court of judicature of the presidency; and it shall be lawful for such court to order that the whole of the evidence, if any, which shall have been so taken down in writing as aforesaid, and the minutes and records of the proceedings of which complaint shall have been made, shall be brought before it; and the said last-mentioned court shall inquire into the matter of the petition, and of such proceedings and evidence, and shall make such order thereon as to the same court shall seem meet and just, and shall thereby direct by whom and in what manner the costs of such petition, and of the proceedings which shall have been had thereon, and of the taking down of any such evidence in writing, and of the proceedings of which complaint shall have been made, shall be paid; and such order shall be final and conclusive as to all parties, and shall be compulsory and binding upon the court in which such proceedings so complained of shall have been had.

Power of appeal to the supreme court of the presidency.

Evidence and records to be brought before court.

Court to make order on appeal, and as to costs of evidence, &c.

LXXIV. And be it enacted, that the proper officer of the several courts for the relief of insolvent debtors shall, on the reasonable request of any such insolvent as aforesaid, or of any creditor or creditors of such insolvent, or his, her, or their attorney, produce and show to such insolvent, creditor or creditors, and his, her, or their attorney, at such times as such courts respectively shall direct, every petition, schedule, order of adjudication, and all other orders and proceedings made and had relating to such insolvent; and the said court shall order the assignees of such insolvent, or the said officer of the court, as the case may be, to permit the said insolvent, creditor or creditors, or their respective attornies, to have inspection, at all reasonable times, of all books, papers, and writings relating to the matters of the said insolvency, and the estate of the said insolvent, in the possession of such assignees, or filed in court in such matter, and permit him, her, or them to inspect and examine the same; and such officer or such assignees as aforesaid shall provide for any such insolvent, or creditor or creditors, or his, her, or their attorney requiring the same a copy or copies of such petition or other proceedings, books, papers, and writings as aforesaid, or of such part thereof as shall be required, receiving such fee or sum or rate of charge as such court shall appoint for so providing the same; and that a copy of such petition, schedule, order, and other orders and proceedings as aforesaid, purporting to be signed by the officer in whose custody the same shall be, or his deputy, certifying the same to be a true copy of such petition, schedule, order, or other proceedings, and appearing to be

Officers of courts to produce proceedings, allow inspection, and give copies, on request of insolvent or creditor.

Certified and sealed copies of proceedings to be evidence.

sealed with the seal of the said courts respectively, shall at all times, and on behalf of all persons, and whether for the purposes of this Act or otherwise, be admitted in all courts whatever, and before commissioners of bankrupt and justices of the peace, without any proof of such seal or other proof whatsoever, as sufficient evidence of the same.

Conveyances, &c. under this Act not liable to stamp duties, nor sales directed by the court to auction duty.

LXXV. And be it enacted, that no conveyance, assignment, letter of attorney, affidavit, certificate, or other proceeding, instrument, or writings whatsoever, before or under any order of any of such courts for relief of insolvent debtors, nor any copy thereof, nor any advertisement inserted in any newspaper by direction of any such court, relating to matters within the jurisdiction of such court, shall be liable to or chargeable or charged with the payment of any stamp or other duty whatsoever; and that no sale of any real or personal estate of any such insolvent as aforesaid for the benefit of his or her creditors under this Act shall be liable to any auction duty.

Supreme courts may make rules and regulations, and may alter and amend the same, subject to her Majesty's approval.

LXXVI. And be it enacted, that her Majesty's supreme courts of judicature at Calcutta, Madras, and Bombay respectively shall respectively have power from time to time to make all necessary and reasonable rules, not inconsistent with the provisions of this Act, for facilitating and carrying into effect within their respective jurisdictions the relief intended to be given by this Act in cases for which sufficient provision has not been thereby made, and from time to time to alter and vary such rules; all which rules shall from time to time be transmitted to the President of the Board of Commissioners for the Affairs of India, to be laid before her Majesty for her royal approbation, correction, or revision.

Filing of petition by insolvent, and adjudication of an act of insolvency, shall be conclusive evidence for purpose of bankruptcy laws in England of an act of bankruptcy committed by insolvent, if he be subject to bankruptcy laws; and any creditor may sue out a fiat in bankruptcy in England against such insolvent.

LXXVII. And be it enacted, that the filing of a petition by any insolvent debtor under this Act, and the adjudication of an act of insolvency under this Act, shall for the purpose of the laws concerning bankrupts in England be accounted and adjudged conclusive evidence of an act of bankruptcy committed by such insolvent at the time of filing his petition, or of filing the petition on which the adjudication shall be made, if the insolvent shall then be a person subject to the laws then in force respecting bankrupts; and any creditor or creditors of such insolvent whose debt or debts shall be of sufficient amount to enable him or them by law to petition for a fiat in bankruptcy may, at any time within two months after notice of the insolvency shall have been given in the London Gazette as herein-after is directed, sue out a fiat in bankruptcy in that part of the United Kingdom called England against such insolvent, under which all such proceedings may be had and taken as are authorized and directed, or shall be authorized and directed, by any statute or statutes now in force or hereafter to be passed respecting bankrupts, except as herein-after provided.

LXXVIII. And be it enacted, that when any creditor or creditors resident within the limits of the charter of the East India Company shall be desirous of suing out such fiat in bankruptcy against any such insolvent trader, it shall be lawful for such person or persons to make proof of his or their debt or debts before any of the said courts for the relief of insolvent debtors, which proof shall be certified under the seal of such court; and the production of the certificate thereof so sealed as aforesaid shall, without any proof of the genuineness of such certificate or of such seal, be sufficient evidence of a petitioning creditor's debt to warrant the issuing of a fiat, and also to authorize all further proceedings thereon.

Creditor residing within the limits of the charter may prove his debt before the insolvent debtors' court; and proof, certified under seal of court, shall be evidence of debt to warrant the issue of a fiat in bankruptcy thereon.

LXXIX. Provided always, and be it enacted, that in the case of the issuing of any fiat in bankruptcy against any such insolvent trader, such fiat shall not in any manner affect, invalidate, or make void any acts or proceedings had or done before the issuing of such fiat of or by or under the authority of any court for the relief of insolvent debtors in India, either by any assignee or assignees, or any other person or persons acting either mediately or immediately under the authority of any such court, and whether without or within the limits of the charter of the said East India Company; nor shall such fiat in any manner affect, invalidate, or make void any such acts or proceedings as aforesaid had or done after the issuing of such fiat respecting any property or interest whatsoever of such insolvent, real or personal, or other matter, thing, or person whatsoever, within the said limits; nor shall the assignee or assignees under any such fiat in bankruptcy acquire any right or title to take possession of, demand, sue for, or recover any property or interest whatsoever, real or personal, of such insolvent, within the limits aforesaid; but the assignee or assignees under such insolvency shall, notwithstanding such fiat in bankruptcy, have full power and control over all the real and personal property of such insolvent within the limits aforesaid, as well as over that without the limits aforesaid of which they may have taken actual possession before the issuing of such fiat, and shall have the distribution and management of all such property, as fully and effectually as if such fiat in bankruptcy had not issued.

Fiat not to invalidate or make void any proceedings had by insolvent debtors' court before the issuing of such fiat, or any proceedings had thereafter as to property within limits of charter.

LXXX. And be it enacted, that all the creditors of any such insolvent whose debts shall have been admitted or allowed by any court for the relief of insolvent debtors in India shall, without further proof, be entitled to be admitted as creditors under any such fiat in bankruptcy as aforesaid, for the purpose of receiving an equal dividend upon the estate of such bankrupt with the creditors who shall have proved their debts under such fiat; and in like manner all creditors under such fiat whose debts shall have been duly established shall be entitled to be admitted as creditors, without further proof, in such court for the relief of insolvent debtors, for the purpose of receiving an equal

Creditors having proved under insolvency to be admitted as creditors under bankruptcy, and creditors under bankruptcy to be admitted as creditors under insolvency.

dividend upon the estate of such insolvent with the creditors whose debts shall have been allowed in such court.

Insolvent made bankrupt in England upon insolvency in India not liable to penalty for not surrendering until 42 days after arrival in United Kingdom.

LXXXI. PROVIDED always, and be it enacted, that when any such insolvent shall be declared bankrupt upon the sole ground herein-before mentioned, he shall not be required to surrender or be liable to any penalty for not surrendering himself to be examined under his commission until forty-two days after he shall have come into some part of the said United Kingdom of Great Britain and Ireland.

Notices of insolvency, &c. to be inserted in the gazettes of the presidencies and the London Gazette.

LXXXII. AND be it enacted, that the principal officer of the respective courts for the relief of insolvent debtors shall cause notices to be inserted in the gazettes of the respective presidencies within which such courts shall be holden of every petition which shall be filed in any of the said courts by any insolvent for relief under this Act, and of every adjudication of an act of insolvency, and of every confirmation or revocation thereof, together with the dates of the same respectively, and, in the case of an adjudication, the date of the petition on which the same is grounded, forthwith after the filing of such petition, or pronouncing such adjudication or such confirmation or revocation respectively; and that the chief secretary of the government of the said presidencies respectively shall, without delay, transmit to the court of directors of the said East India Company two or more copies at least of every such gazette which shall contain any such notice as aforesaid, who shall, without delay after the receipt thereof, cause such notice to be inserted in the London Gazette; and the production of the London Gazette containing any such notice as aforesaid shall be deemed and taken by all commissioners of bankruptcy and all courts whatsoever to be sufficient evidence of the filing of the petition of such insolvent in such court as aforesaid, and of such adjudication of insolvency, and of such confirmation or revocation thereof, and of the dates of the same proceedings respectively, and, in the case of any adjudication, of the date of the petition on which the same is grounded.

Production of London Gazette to be evidence.

If fiat in bankruptcy be issued against insolvent before he obtains his order of discharge, such order shall not operate as a discharge of the debts, &c. of any creditor not resident within the

LXXXIII. PROVIDED always, and be it enacted, that in case any fiat in bankruptcy, whether under the provisions of this Act or otherwise, shall be issued against such insolvent trader as aforesaid, upon which such insolvent shall be declared a bankrupt before such order for discharge in the nature of a certificate as herein-before mentioned, then and in such case such order shall not operate as a discharge from the debt, claim, and demand of any creditor who shall not have been resident within the limits aforesaid at any time between the filing of the insolvent's petition or the adjudication, as the case may be, and the making of such order: Provided always, that when

such insolvent shall be indebted or liable to two or more persons jointly, if any one of such joint creditors shall have been resident within the limits aforesaid within the time aforesaid, such certificate shall operate against all such joint creditors as aforesaid, notwithstanding the non-residency within the limits aforesaid of some of the said joint creditors.

limits of the charter, except in case of joint creditors one of whom is so resident.

LXXXIV. Provided always, and be it enacted, that in case any fiat in bankruptcy shall be issued against such insolvent trader as aforesaid, upon which he shall be declared a bankrupt before such order for discharge in the nature of a certificate as herein-before mentioned, if it shall afterwards be made to appear to any commissioner, judge, or court in bankruptcy having authority to grant a bankrupt's certificate that such order has been made by the court in the East Indies as aforesaid, such commissioner, judge, or court as aforesaid may, if he think fit, thereupon grant the certificate of such bankrupt, which shall have the same force and effect, both without and within the limits aforesaid, as any certificate duly granted under any statute or statutes now in force or hereafter to be in force respecting bankrupts.

Power of court of bankruptcy, in case of discharge granted to insolvent made bankrupt, to grant certificate to such bankrupt.

LXXXV. And be it enacted, that whenever it shall appear by the schedule of any such insolvent as aforesaid that any of the creditors are resident out of the limits aforesaid, the principal officer of the said court for the relief of insolvent debtors shall, as soon as conveniently may be after the filing of such schedule, transmit two or more copies thereof to the chief secretary of the government of the presidency within which such court is situate, who shall transmit the same to the court of directors as soon as conveniently may be after the receipt thereof; and the said court of directors shall retain the same, and permit any person or persons, being a creditor or creditors of any such insolvent debtor, at all reasonable times to inspect and examine such schedule, and shall, upon the request and at the reasonable costs and charges of any such creditor or creditors, such costs or charges to be regulated by the said court of directors, provide for him or them a copy or copies of any such schedule.

Where any creditors are residing out of the limits, copies of schedule shall be transmitted from India to the court of directors, and creditors may inspect and take copies thereof.

LXXXVI. Provided always, and be it enacted, that in all cases where any insolvent shall not have obtained his discharge in the nature of a certificate as aforesaid under this Act, the said court for the relief of insolvent debtors may, if in the circumstances of the case it shall think fit, before making such order for such discharge, direct a judgment to be entered up against such insolvent in the supreme court of the presidency within which such court for the relief of insolvent debtors shall be situate in the name of the assignee or assignees, or of such official assignee as the court shall think fit, for the amount of the debts or demands stated in the schedule of such insolvent as due or claimed, and of such as shall be established in the said court against the said insolvent's estate, or so much thereof as shall appear at the time of

Courts may, before making order of discharge, order judgment to be entered up in the supreme court in name of assignee against insolvent for the amount of the debts stated in insolvent's schedule, or proved.

such order to be due, which said order shall be filed in the said court for the relief of insolvent debtors in India; and the production of such order, or of a copy of such order, under the seal of the said court, of which order, copy, and seal no proof shall be requisite, other than the production of such order or copy, shall be sufficient authority to the proper officer for entering up the said judgment; and then and in every such case, and notwithstanding the provisions herein-before contained, if at any time it shall appear to the satisfaction of the said court that such insolvent is of ability to pay such debts or demands, or any part thereof, or that he is dead, leaving assets for such purpose, and that under the circumstances the same is reasonable and proper, the said court may, if it shall think fit, order execution to be taken out upon such judgment against the property of such insolvent, whether the same may or may not be by law vested in his assignee or assignees, for such sum of money as under all the circumstances of the case the said court shall order, such sum to be distributed rateably amongst the creditors of such insolvent according to the mode herein-before directed in the case of a dividend, and such further proceedings may be had upon such judgment as the court may from time to time order, until the said debts or demands shall be fully paid and satisfied, and no scire facias shall be necessary to revive or to execute such judgment on account of any lapse of time or change of parties, or otherwise, but execution shall at all times issue thereon by virtue of the order of the said court for the relief of insolvent debtors from time to time: Provided always, that in case any application against any such insolvent for the purpose aforesaid shall appear to the court to be vexatious or oppressive, it shall be lawful for the said court not only to refuse to make any order on such application, but also to dismiss the same with such costs against the party making the same as to the said court shall appear reasonable.

Execution on such judgment may from time to time be issued against future assets of insolvent.

Court may refuse vexatious applications with costs.

LXXXVII. And be it enacted, that when the debts or demands in respect of which such judgment shall have been entered up as aforesaid shall have been discharged and satisfied, it shall be lawful for such court, upon application of the insolvent, his heirs, executors, or administrators, to direct satisfaction to be entered on such judgment; and the production of the order of the said court for entering up such satisfaction, or of a copy thereof, under seal of the said court, of which said order or copy or seal no proof shall be requisite, other than the production of such order or copy as aforesaid, shall be a sufficient authority to the proper officer for entering up the same; and that if in any case it shall appear to the satisfaction of the said court that after the said debts and demands shall have been so discharged and satisfied as aforesaid there shall remain in the possession or subject to the control of his assignee or assignees any property of any kind or description whatsoever, which

When judgment is discharged and satisfied, court may, on application of insolvent or his representatives, order satisfaction to be entered up on such judgment;

and balance in hands of assignee to be paid to party applying.

has come to such assignee or assignees, or to which he or they may claim title, by virtue of the order made in that behalf, or otherwise by virtue of his or their office of assignee or assignees, it shall be lawful for the said court, on such application as aforesaid, to order that all such property so remaining as aforesaid shall be vested in the party so applying, and be forthwith delivered up to the said party, and such order shall have the effect of vesting the same accordingly, and the same shall be forthwith delivered up to the said party.

* * * * * * * * *

XCI. And be it enacted, that where any rules or other matters are hereinbefore directed to be transmitted for her Majesty's approbation, correction, or revision, the same respectively shall in the meantime be of full force and shall so continue until the expiration of fourteen days after the court by whose authority such rules or other matters shall have been made shall have received from the President of the Board of Commissioners for the Affairs of India a communication of her Majesty's disallowance thereof, or of any alterations directed by her Majesty to be made therein.

Rules, &c. directed to be transmitted for her Majesty's approbation, &c. shall be in force till 14 days after notice of disallowance or alteration thereof.

XCII. And be it enacted, that whenever this statute hath used the words "court for relief of insolvent debtors," or any words of reference to the same, they shall include each court for the relief of insolvent debtors at Calcutta Madras, and Bombay respectively; and words describing the petition of any insolvent shall include the joint petition of two or more insolvents, and all provisions as to the one shall apply to the other; and words importing the singular number or masculine gender only shall be understood to include several matters as well as one matter, and several persons as well as one person, and females as well as males, and bodies corporate ss well as individuals, unless it be otherwise provided, or there be something in the subject or context repugnant to such construction.

Interpretation of Act.

* * * * * * * * *

XCIV. Provided always, and be it enacted, that nothing in this Act contained shall affect an Act passed by the Right Honourable the Governor General of India in council, in one thousand eight hundred and forty-one, for appropriating the unclaimed dividends of insolvent estates.

This Act not to affect a certain Act of the Governor General in council of 1841.

SCHEDULES referred to by the foregoing Act.

Schedule (A.)

Form of Petition by Insolvent in Custody.

In the Court for Relief of Insolvent Debtors.

In the matter of , an insolvent.

To the honourable the commissioners of the said court, the humble petition of

late of

Showeth,

THAT on the day of your petitioner was committed to the custody of the sheriff [by virtue of a writ of issued against your petitioner at the suit of the for the sum of], [and that detainers have since been lodged against him at the suit of and for sums of and respectively], and that he is now a prisoner in the common gaol under the process aforesaid.

That he is desirous of obtaining the benefit of the Act for the relief of insolvent debtors in India.

Your petitioner therefore humbly prays, that upon compliance with the provisions of the said Act he may have the benefit of the same, and that all necessary directions may be given for that purpose.

And your petitioner, &c.

NOTE.

The blanks are to be filled up, and the parts between brackets omitted or varied, according to the facts.

The petition is to be signed by the insolvent, and witnessed by the gaoler.

A similar form is to be adopted in the case of a joint petition.

SCHEDULE (B.)

Form of Petition of Insolvent not in Custody.

In the Court for the Relief of Insolvent Debtors.

In the matter of , an insolvent.

To the honourable the commissioners of the said court, the humble petition of , of

Showeth,

THAT your petitioner is in insolvent circumstances.

That he is now residing at , within the jurisdiction of the supreme court of .

That he is desirous of obtaining the benefit of the Act for the relief of insolvent debtors in India.

Your petitioner therefore humbly prays, that upon compliance with the provisions of the said Act he may have the benefit of the same, and that all necessary directions may be given for that purpose.

And your petitioner, *&c.*

NOTE.

The petition to be signed by the petitioner, and witnessed by his attorney.

SCHEDULE (C.)

In the Court for the Relief of Insolvent Debtors.

The schedule of

In the matter of , an insolvent.

I the said do declare, that this my schedule doth contain a full and fair description of me, as to name, trade, profession, and abode, and of the debts due or growing due from me, and of all and every person to whom I am indebted, or who to my knowledge and belief claim to be my creditors, together with the nature and amount of such debts and claims respectively, distinguishing such as are admitted from such as are disputed by me; and also a full, true, and perfect account of all my estate and effects, real and personal, in possession, reversion, remainder, or expectancy, and also of all places and employments of benefit to me held by me, and also of all pensions and allowances which I have in possession or reversion, or which are held by any other person for me or on my behalf, or of or from which I derive or may derive any manner of benefit, and also of all rights and powers which I am, or any other person in trust for me or for my use or benefit are, in any manner whatever possessed of or interested in or entitled unto, or which I or any other person in trust for me or for my benefit have any power to dispose of, charge, or exercise, for my benefit or advantage, together with a full, true, and perfect account of all the debts due or growing due to me or any person in trust for me or for my benefit or advantage, either solely or jointly with any other person, and the names and places of abode of the several persons from whom such debts are due and growing due, and of the witnesses who can prove or other evidence to prove such debts, so far as I can set forth the same; and that this my schedule doth fully and truly describe the the wearing apparel, bedding, and other such necessaries and working tools and implements of myself and my family which are excepted by me from the operation of the Act relating to insolvents in India, together with the value of such excepted articles respectively.

CREDITORS.

No.	Names and description of creditors of claimants, and their present or last residence.	Amount.	When contracted.	Admitted or disputed.	Nature and consideration of the debt and securities, if any; also why disputed, if disputed.
1. &c.					

Where there are cross demands, the party must be entered both as creditor and debtor, and "set off" must be written under the amount.

DEBTORS.

No.	Names and descriptions and places of abode of debtors.	Amount.	When contracted	Good, bad, or doubtful.	Nature and consideration of the debt, also securities (if any) for the same.	Witnesses, with their residences, and other evidence by which the debt may be proved.

N. B.—If property has been taken possession of by the common assignee, it must nevertheless be fully entered in the schedule.

PROPERTY in possession.

		Supposed value.
1 Interest in land, houses, rents, or other real estate.	Describe the quantity of estate, if less than the absolute proprietary right, as lease for years, lease for lives, &c ; local description, names of tenants, annual rent or value; statement of incumbrances (if any) thereupon, with description of them, and dates	
2. Goods, choses in action . .	Household furniture . . . . . . Wearing apparel (not excepted) . . . Jewels, trinkets, and ornaments . . . Plate, linen, china, glass . . . . Wines and other liquors . . . . Books, prints, and pictures . . . . Horses and other animals . . . . Carriages . . . . . . Farming stock, crops, and implements of husbandry . . . . . . Other crops on cultivation . . . . Stock in trade, machinery, and utensils, in my business of . . . . . . Ships and shares of ships, describing the ships by name, and master, or other sufficient description . . . . . Cash, bills, notes, bonds, &c.; any other property not particularly specified . .	

PROPERTY in possession,—*continued.*

		Supposed value.
3. Property in public securities, Indian or otherwise, shares in companies, annuities, &c.	Describe the fund, stock, company, security, &c., and state in whose name, and also when and by whom, the last dividend or other payment in respect of the same was received, and shares of estate.	
4. Unpaid legacies . . .	Legacies, shares of intestates' estates, with all particulars concerning the same . .	

PROPERTY in reversion, places, pensions, allowances, rights, and powers.
Contingent as well as vested interests must be entered.

Real and personal estate and effects in which I have any interest in reversion, remainder, or expectancy.

		Supposed value of my interest, if now to be sold.
1. Interests in land, houses, rents, and other real estate. 2. Personal property, as goods and certain choses in action. 3. Other personal property, as public securities, Indian or otherwise, shares in companies, annuities	Describe the property as in the division relating to property in possession; add a description of the nature of the interest, and from whom and in what manner it is derived, with names and descriptions of persons now enjoying the same, the value or annual value, according to the nature of the property, and in whose name or names the property now stands, or who has the legal interest therein, according to the nature of the property.	
Places, pensions, and allowances, in possession or reversion.	Places of employments held by me, with the salaries, fees, and emoluments thereof; also all pensions and allowances in possession or reversion held by me, or by any other person or persons for me or on my behalf, or of or from which I derive or may derive any benefit.	
Rights and powers . . .	Rights and powers which I or any other person or persons in trust for me, or for my use, benefit, or advantage, am or are in any manner seised or possessed of or interested in or entitled unto, or which I or any other person or persons in trust for me or for my benefit have any power to dispose of, charge, or exercise, for my benefit or advantage.	
Excepted articles . . .	Excepted articles, and the value thereof . Give a full description of the excepted articles and their value.	

The schedule to be signed by the insolvent, and witnessed by his attorney.
A similar form must be adopted in the case of a joint schedule.

SCHEDULE (D.)

Form of Petition for Adjudication of Insolvency.

FORM No. 1.

In the Court for the Relief of Insolvent Debtors.

In the matter of , an insolvent.

To the honourable the commissioners of the said court.

The humble petition of , of

Showeth,

THAT on or about the day of the said [*here state the time and place of the charge in execution or commitment of the prisoner, and the amount of the debt or sum of money for which the prisoner shall have been so charged in execution or committed*].

That your petitioner is desirous that the said prisoner should be dealt with according to the provisions of the Act for the relief of insolvent debtors in India.

Your petitioner therefore humbly prays that the said may be adjudged to have committed an act of insolvency, pursuant to the provisions of the Act for the relief of insolvent debtors in India, and that the proper order may thereupon be made

And your petitioner, &c.

FORM No. 2.

In the Court for the Relief of Insolvent Debtors.

In the matter of , an insolvent.

To the honourable the commissioners of the said court.

The humble petition of , of

Showeth,

THAT , late of , (heretofore and up to carried on the trade or business of at), and thereby, as your petitioner is advised, became a trader within the meaning of the bankrupt laws.

That on or about the day of the said [*here state shortly the act or acts of insolvency relied on*], whereby as your petitioner is advised and believes, the said is liable to be adjudged to have committed an act of insolvency.

That at the time aforesaid the said was and now is indebted to your petitioner in the sum of [*state for what the party is indebted, as* for goods sold and delivered, *&c.*].

Your petitioner therefore humbly prays that the said may be adjudged to have committed an act of insolvency, pursuant to the provisions of the Act for the relief of insolvent debtors in India, and that the proper order may thereupon be made

And your petitioner, *&c.*

NOTE.

The blanks must be filled up, and the parts within brackets varied or supplied, as the case may require.

A similar form must be used in the case of a joint petition.

SCHEDULE (E.)

Form of Petition for Discharge in the Nature of a Certificate of an Insolvent not a Trader.

In the Court for the Relief of Insolvent Debtors.

In the matter of , an insolvent.

To the honourable the Commissioners of the said court.

The humble petition of the said insolvent,

Showeth,

THAT on or about the day of [*the circumstances to be stated shortly*].

That the estate of your petitioner has realized one third of the amount of the debts established in this court in the matter of the said insolvency [*or*, that the major part in number and value of the creditors of your petitioner contained in the said schedule, or who have since established their debts in this court, have consented to the discharge of your petitioner from all further liability in respect of his aforesaid debts, provided that this court shall so order], as appears by the schedule annexed to this petition, to which your petitioner craves leave to refer.

That your petitioner is desirous of obtaining a discharge in the nature of a certificate under the provisions of the said Act.

Your petitioner therefore humbly prays that he may be discharged from all liability in respect of such debts, and that all necessary directions may be given for that purpose.

And your petitioner, *&c.*

NOTE.

The blanks must be filled up, and the parts between brackets varied, as the case may require.

The schedule to contain a copy of the original schedule, and of the debts proved since, if any, and the consents of the creditors must be signed by them, or their attornies specially authorized.

SCHEDULE (F.)

Form of Petition for Discharge in the Nature of a Certificate of an Insolvent Trader.

In the Court for the Relief of Insolvent Debtors.

In the matter of , an insolvent trader.

To the honourable the commissioners of the said court.

The humble petition of the said insolvent,

Showeth,

THAT your petitioner, prior to his insolvency herein-after mentioned, carried on the trade or business of , and thereby became a trader within the meaning of the bankrupt laws.

That on or about the day of your petitioner petitioned for his discharge under the Act for the relief of insolvent debtors in India (*or*, was adjudged by this court to have committed an act of insolvency).

That on or about the day of your petitioner duly filed his schedule in this court, and that your petitioner is desirous of obtaining a discharge in the nature of a certificate under the provisions of the Act relating to insolvent debtors in India; and he therefore humbly prays that all necessary directions may be given for that purpose, and that your petitioner may, by the order of this court for his discharge in the nature of a certificate, be discharged from all liability in respect of the debts or claims established, or which might by law be proved in this court, in the matter of his insolvency.

And your petitioner, *&c.*

NOTE.

The petitioner must annex to this petition a copy of his schedule, and include all debts established, though not included in the schedule as originally filed.

The blanks must be filled up, and the parts between brackets varied, as the case may require.

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12 & 13 VICTORIA. A. D. 1849.

CHAPTER XXV.

An Act for giving effect to the Stipulations of a Treaty between Her Majesty and the Queen of Portugal for the Apprehension of certain Deserters.

[*26th June 1849.*]

WHEREAS by the sixteenth article of a treaty of commerce and navigation between Her Majesty and the Queen of Portugal, signed at Lisbon on the third day of July one thousand eight hundred and forty-two, the ratifications whereof were exchanged at Lisbon on the thirtieth day of the same month, it was agreed "that if any apprentices or sailors should desert "from vessels belonging to the subjects of either of the high contracting parties "while such vessels were within any port in the territory of the other party, "the magistrates of such port and territory should be bound to give every "assistance in their power for the apprehension of such deserters, on applica-"tion to that effect being made by the consul of the party concerned, or by "the deputy or representative of the consul, and no public body, civil or "religious, should protect or harbour such deserters"; and by the nineteenth article of the said treaty it was further agreed, "that the said treaty should be "in force for the term of ten years from the date thereof, and further until the "end of twelve months after either of the high contracting parties should "have given notice to the other of its intention to terminate the same, each of "the high contracting parties reserving to itself the right of giving such "notice to the other at the end of the said term of ten years, or at any "subsequent time; and it was thereby agreed between them that at the "expiration of twelve months after such notice should have been received by "either party from the other the said treaty and all the provisions thereof "should altogether cease and determine:" And whereas it is expedient that

provision should be made for carrying the said treaty into effect: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that in case any apprentice or sailor shall desert from any vessel belonging to any Portuguese subject or subjects, while such vessel shall be within any port in any of her Majesty's dominions, or the territories under the government of the East India Company, all justices of the peace and other magistrates and officers of justice within their several jurisdictions shall, on application being made by a Portuguese consul, or his deputy or representative, according to the provisions of the said treaty, aid in apprehending such apprentice or sailor; and upon any such application it shall be lawful for any justice of the peace, or other magistrate or person having power to commit for trial persons accused of crimes against the laws of that part of her Majesty's dominions or territories in which such apprentice or sailor shall be found, to issue his warrant for the apprehension of such apprentice or sailor, and, upon due proof of such desertion as aforesaid, to order such apprentice or sailor to be conveyed on board the said vessel, or to be delivered to the master, mate, or owner of such vessel, or his agent, for the purpose of being so conveyed; and it shall be lawful for such master, mate, owner, or agent, or any other person, in pursuance of the order in that behalf, to convey such apprentice or sailor accordingly.

Deserters from Portuguese vessels in ports in her Majesty's dominions or India to be apprehended on application of Portuguese consul and conveyed back to the vessel or delivered to the master, &c.

II. And be it enacted, that no person shall protect or harbour any apprentice or sailor who shall have deserted as aforesaid, knowing or having reason to believe such apprentice or sailor to have so deserted; and every person so offending shall for every such apprentice or seaman so protected or harboured forfeit and pay the sum of ten pounds; and such penalty shall be recovered, paid, and applied, in like manner as the penalty imposed by an Act passed in the eighth year of her Majesty, intituled "An act to amend and consolidate the laws relating to merchant seamen, and for keeping a register of seamen," upon a person harbouring or secreting a seaman or apprentice having deserted from his ship; and the provisions of such Act applicable to such last-mentioned penalty, and to the proceedings for the recovery thereof, shall be applicable to the penalty imposed by this Act, and to the proceedings for the recovery thereof. [Repealed. Stat. Law Rev. (Substituted Enactments) Act, 1876.]

Penalty for protecting deserters.

Penalty to recoverable under 7 & 8 Vict. c. 112.

III. And be it enacted, that if by any law or ordinance to be hereafter made by the local legislature of any British colony or possession abroad provision shall be made for carrying into complete effect within such colony or possession the objects of this present Act, by the substitution of some other enactment in lieu thereof, then it shall be competent to her Majesty, with the advice of her Privy Council, (if to her Majesty in council it shall seem meet, but not otherwise,) to suspend the operation within any such colony or possession of

The operation of this Act in any colony may be suspended while any enactment of the colonial legislature carrying out the objects of this Act

remains in force there.

this present Act, so long as such substituted enactment shall continue in force there, and no longer.

Continuance of this Act

IV. And be it enacted, that this Act shall continue in force during the continuance of the said treaty.

12 & 13 VICTORIA. A. D. 1849.

Chapter XCVI.

An Act to provide for the Prosecution and Trial in Her Majesty's Colonies of Offences committed within the Jurisdiction of the Admiralty.

[*1st August 1849.*]

11 Will. 2 c. 7.

Whereas by an Act passed in the eleventh year of the reign of King William the Third, intituled "An Act for the more effectual suppression of piracy," it is enacted, that all piracies, felonies, and robberies committed on the sea, or in any haven, river, creek, or place where the admiral or admirals have power, authority, or jurisdiction, may be examined, inquired of, tried, heard, and determined, and adjudged, in any place at sea or upon the land in any of his Majesty's islands, plantations, colonies, dominions, forts, or factories, to be appointed for that purpose by the King's commission, in the manner therein directed, and according to the civil law and the method and rules of the Admiralty: And whereas by an Act passed in the forty-sixth year of the reign of King George the Third, intituled "An Act for the speedy trial of offences committed in distant parts upon the sea," it is enacted, that all treasons, piracies, felonies, robberies, murders, conspiracies, and other offences, of what nature or kind soever, committed upon the sea, or in any haven, river, creek, or place where the admiral or admirals have power, authority, or jurisdiction, may be inquired of, tried, heard, determined, and adjudged, according to the common course of the laws of this realm used for offences committed upon the land within this realm, and not otherwise, in any of his Majesty's islands, plantations, colonies, dominions, forts, or factories, under and by virtue of the King's commission or commissions under the great seal of Great Britain, to be directed to commissioners in the manner and with the powers and authorities therein provided: And whereas it is expedient to make further and better provision for the apprehension, custody, and trial, in her Majesty's islands, plantations, colonies, dominions, forts, and factories, of persons charged with the commission of such offences on the sea, or in any such haven, river, creek, or place as aforesaid: Be therefore it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament

46 Geo 3. c 54

All persons charged in any colony with offences

assembled, and by the authority of the same, that if any person within any colony shall be charged with the commission of any treason, piracy, felony, robbery, murder, conspiracy, or other offence, of what nature or kind soever, committed upon the sea, or in any haven, river, creek, or place where the admiral or admirals have power, authority, or jurisdiction, or if any person charged with the commission of any such offence upon the sea, or in any such haven, river, creek, or place, shall be brought for trial to any colony, then and in every such case all magistrates, justices of the peace, public prosecutors, juries, judges, courts, public officers, and other persons in such colony shall have and exercise the same jurisdiction and authorities for inquiring of, trying, hearing, determining, and adjudging such offences, and they are hereby respectively authorized, empowered, and required to institute and carry on all such proceedings for the bringing of such person so charged as aforesaid to trial, and for and auxiliary to and consequent upon the trial of any such person for any such offence wherewith he may be charged as aforesaid, as by the law of such colony would and ought to have been had and exercised or instituted and carried on by them respectively if such offence had been committed, and such person had been charged with having committed the same, upon any waters situate within the limits of any such colony, and within the limits of the local jurisdiction of the courts of criminal justice of such colony.

committed on the sea, or in places within the jurisdiction of the Admiralty, may be dealt with in the same manner as if the offences had been committed on waters within the local jurisdiction of the courts of the colony.

II. Provided always, and be it enacted, that if any person shall be convicted before any such court of any such offence, such person so convicted shall be subject and liable to, and shall suffer, all such and the same pains, penalties, and forfeitures, as by any law or laws now in force persons convicted of the same respectively would be subject and liable to in case such offence had been committed, and were inquired of, tried, heard, determined, and adjudged, in England, any law, statute, or usage to the contrary notwithstanding.

Persons convicted of such offences shall suffer the like punishments as on conviction of like offences in England.

III. And be it enacted, that where any person shall die in any colony of any stroke, poisoning, or hurt, such person having been feloniously stricken, poisoned, or hurt upon the sea, or in any haven, river, creek, or place where the admiral or admirals have power, authority, or jurisdiction, or at any place out of such colony, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, or of being accessory before the fact to murder, or after the fact to murder or manslaughter, may be dealt with, inquired of, tried, determined, and punished, in such colony, in the same manner and in all respects as if such offence had been wholly committed in that colony; and that if any person in any colony shall be charged with any such offence as aforesaid in respect of the death of any person who, having been feloniously stricken, poisoned, or otherwise hurt, shall have died of such stroke, poisoning, or hurt upon the sea, or in any haven,

Provision for trial in any colony of persons charged with murder, manslaughter, &c., where death in the colony, &c. follows from injuries inflicted on the sea, &c.

Where any person is charged in any colony in respect of the death on the sea, &c. of any person

injured, the whole offence shall be held to have been committed on the sea, &c.

river, creek, or place where the admiral or admirals have power, authority, or jurisdiction, such offence shall be held for the purpose of this Act to have been wholly committed upon the sea.

Jurisdiction of supreme courts of New South Wales and Van Diemen's Land under 9 Geo. 4. c. 83 not to be affected.

IV. PROVIDED also, and be it enacted, that nothing in this Act contained shall in any way affect or abridge the jurisdiction of the supreme courts of New South Wales and Van Diemen's Land, as established by an Act passed in the ninth year of the reign of King George the Fourth, intituled "An Act to provide for the administration of justice in New South Wales and Van Diemen's Land, and for the more effectual government thereof, and for other purposes relating thereto."

Interpretation of "colony."

V. AND be it enacted, that for the purposes of this Act the word "colony" shall mean any island, plantation, colony, dominion, fort, or factory of her Majesty, except any island within the United Kingdom, and the islands of Man, Guernsey, Jersey, Alderney, and Sark, and the islands adjacent thereto respectively, ... ; and the word "governor" shall mean the officer for the time being administering the government of any colony.

"Governor."

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13 & 14 VICTORIA. A. D. 1850.

CHAPTER XXVI.

An Act to repeal an Act of the Sixth Year of King George the Fourth, for encouraging the Capture or Destruction of Piratical Ships and Vessels; and to make other Provisions in lieu thereof. [*25th June 1850.*]

6 Geo. 4, c. 49.

WHEREAS an Act was passed in the sixth year of the reign of his Majesty King George the Fourth, intituled "An Act for encouraging the capture or destruction of piratical ships and vessels": And whereas it is expedient that the said Act should be repealed, and that other provisions be made in lieu thereof: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, that from and after the first day of June next after the passing of this Act the herein-before recited Act shall be and the same is hereby repealed, [Repealed, Stat. Law Rev. Act, 1875.] . . . . . .

Recited Act repealed.

Jurisdiction given to High Court of Admiralty and all vice admiralty courts in cases where ships of war

II. AND be it enacted, that whenever any of her Majesty's ships or vessels of war, or hired armed vessels, ... , or their boats, or any of the officers and crews thereof, shall . . . . . attack or be engaged with any persons alleged to be pirates afloat or ashore, it shall be lawful for the High Court of Admiralty of England, and for all courts of

vice admiralty in any dominions of her Majesty beyond the seas, ... , to take cognizance of and to determine whether the persons or any of them so attacked or engaged were pirates, and to adjudge what was the total number of pirates so engaged or attacked, specifying the number of pirates captured, and what were the vessels and boats engaged.

are engaged with persons alleged to be pirates, to determine whether they were pirates, and their number, &c.

III. And be it enacted, that with a view to the assignment of fitting rewards for services performed by her Majesty's forces against pirates the registrars of the several vice admiralty courts shall, on the first day of January and first day of July in every year, transmit to the said Lords Commissioners of the Admiralty a list or return of all cases which shall have been adjudged in the said courts respectively under this Act during the six months preceding, together with the dates of the seizure, according to the schedule marked (A.) to this Act annexed; and that the judges or registrars of the said courts respectively shall, upon the first convenient opportunity after every such decision, transit the whole of the original evidence, with a statement of the proceedings, to the said Lords Commissioners of the Admiralty, for the purpose of the same being deposited in the High Court of Admiralty of England for reference when necessary; and all agents of officers and men receiving any rewards herein-before referred to shall be subject to the same laws, rules, and regulations to which agents receiving bounty for the abolition of the slave trade are or may be subject.

List or return of all cases decided in vice admiralty courts to be sent to the Lords Commissioners of the Admiralty every six months, in form in schedule. Evidence to be transmitted to and deposited in High Court of Admiralty.

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V. And be it enacted, that all ships, vessels, boats, goods, merchandize, specie, or other property taken possession of from pirates by any of her Majesty's ships or vessels of war, or hired armed vessels, ... , or their boats, or any of the officers and crews thereof, shall and may be proceeded against in any of the admiralty courts before mentioned, and be subject and liable to condemnation as droits and perquisites of her Majesty in her Office of Admiralty: Provided always, that if any part of the said property shall be duly proved to have belonged to and to have been taken from any of her Majesty's subjects, or from the subjects of any foreign power, then such property and every part thereof shall, by the decree of the said court, be adjudged to be restored, and shall be accordingly restored, to the former owner or owners, proprietor or proprietors thereof respectively, he or they paying for or in lieu of salvage a sum of money equal to one eighth part of the true value, which money, if such property shall have been taken by any of her Majesty's ships or vessels of war or hired armed ships, or their boats, [Repealed, Stat. Law Rev. Act, 1875.] shall be paid to and divided and distributed amongst the officers and crews thereof, in such manner, form, and proportion as other bounties are now distributable by virtue of her Majesty's proclamation or order in council dated

Ships, &c. taken from pirates may be proceeded against, and shall be liable to condemnation as droits of Admiralty;

but property proved to have belonged to any subjects of her Majesty or of any foreign power shall be restored on payment of one eighth of the value;

and the sum paid shall be distributed among the

captors as directed by order in council.

the thirtieth day of July one thousand eight hundred and forty-nine, or as her Majesty, her heirs and successors, shall from time to time by any further proclamation or order or orders in council think fit to declare and direct;

. . . . . .

Persons giving false evidence deemed guilty of perjury.

VI. And be it enacted, that every person who shall wilfully and corruptly give false evidence in any examination or deposition had or affidavit taken in any proceeding under this Act shall be deemed guilty of perjury, and being thereof convicted shall be subject and liable to all the punishments, pains, and penalties to which persons convicted of wilful and corrupt perjury are liable;

Trial of such persons.

and every such person may be tried for any such perjury either in the place where the offence was committed or in any colony or settlement of her Majesty near thereto in which there is a court of competent jurisdiction to try any such offence, or in her Majesty's Court of Queen's Bench in England; and that in case of any prosecution for such offence in her Majesty's said Court of Queen's Bench the venue may be laid in the county of Middlesex.

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SCHEDULE (A.) referred to by this Act.

Date of attack or destruction.	Property seized, if any.	Names of attacking ships.	Date of sentence.	Decretal part of sentence.	Whether any property has been condemned, and sold or converted, and whether any part remains unsold, and in whose hands the proceeds remain.

13 & 14 VICTORIA. A. D. 1850.

Chapter CIV.

An Act to extend and amend the Acts relating to the Copyright of Designs.

[*14th August 1850.*]

Whereas it is expedient to extend and amend the Acts relating to the copyright of designs: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and

temporal, and commons, in this present Parliament assembled, and by the authority of the same:

Certain designs may be registered provisionally for one year.

I. THAT the registrar of designs, upon application by or on behalf of the proprietor of any design not previously published within the United Kingdom of Great Britain and Ireland or elsewhere, and which may be registered under the Designs Act, 1842, or under the Designs Act, 1843, for the provisional registration of such design under this Act, and upon being furnished with such copy, drawing, print, or description, in writing or in print, as in the judgment of the said registrar shall be sufficient to identify the particular design in respect of which such registration is desired, and the name of the person claiming to be proprietor, together with his place of abode or business, or other place of address, or the style or title of the firm under which he may be trading, shall register such design in such manner and form as shall from time to time be prescribed or approved by the Board of Trade; and any design so registered shall be deemed "provisionally registered," and the registration thereof shall continue in force for the term of one year from the time of the same being registered as aforesaid; and the said registrar shall certify, under his hand and seal of office, in such form as the said board shall direct or approve, that the design has been provisionally registered, the date of such registration, and the name of the registered proprietor, together with his place of abode or business, or other place of address.

Benefits conferred by provisional registration. 5 & 6 Vict. c. 100.

II. THAT the proprietor of any design which shall have been provisionally registered shall, during the continuance of such registration, have the sole right and property in such design; and the penalties and provisions of the said Designs Act, 1842, for preventing the piracy of designs, shall extend to the acts, matters, and things next herein-after enumerated, as fully as if those penalties and provisions had been re-enacted in this Act, and expressly extended to such acts, matters, and things, respectively; that is to say,

1. To the application of any provisionally registered design, or any fraudulent imitation thereof, to any article of manufacture, or to any substance.
2. To the publication, sale, or exposure for sale of any article of manufacture, or any substance, to which any provisionally registered design shall have been applied.

Provisional registration, or exhibition in certain places of provisionally registered designs, or of articles to

III. THAT during the continuance of such provisional registration neither such registration nor the exhibition or exposure of any design provisionally registered, or of any article to which any such design may have been or be intended to be applied, in any place, whether public or private, in which articles are not sold or exposed or exhibited for sale, and to which the public are not admitted gratuitously, or in any place which shall have been previously

which such designs are applied, not to prevent registration under Designs Acts during continuance of provisional registration.

certified by the Board of Trade to be a place of public exhibition within the meaning of this Act, nor the publication of any account or description of any provisionally registered design exhibited or exposed or intended to be exhibited or exposed in any such place of exhibition or exposure in any catalogue, paper, newspaper, periodical, or otherwise, shall prevent the proprietor thereof from registering any such design under the said Designs Acts at any time during the continuance of the provisional registration, in the same manner and as fully and effectually as if no such registration, exhibition, exposure, or publication had been made: Provided that every article to which any such design shall be applied, and which shall be exhibited or exposed by or with the licence or consent of the proprietor of such design, shall have thereon or attached thereto the words "provisionally registered," with the date of registration.

Articles exhibited to which design is applied to have the words "provisionally registered" thereon.

Sale of articles to which a provisionally registered design, &c. has been applied shall make the registration void, but the design itself may be sold.

IV. That if during the continuance of such provisional registration the proprietor of any design provisionally registered shall sell, expose, or offer for sale any article, substance, or thing to which any such design has been applied, such provisional registration shall be deemed to have been null and void immediately before any such sale, offer, or exposure shall have been first made; but nothing herein contained shall be construed to hinder or prevent such proprietor from selling or transferring the right and property in any such design.

Board of Trade may extend the period of provisional registration for six months.

V. That the Board of Trade may by order in writing with respect to any particular class of designs, or any particular design, extend the period for which any design may be provisionally registered under this Act, for such term, not exceeding the additional term of six months, as to the said board may seem fit; and whenever any such order shall be made, the same shall be registered in the office for the registration of designs, and during the extended term the protection and benefits conferred by this Act in case of provisional registration shall continue as fully as if the original term of one year had not expired.

Registration of sculpture, models, &c. within protection of Sculpture Copyright Acts.

VI. That the registrar of designs, upon application by or on behalf of the proprietor of any sculpture, model, copy, or cast within the protection of the Sculpture Copyright Acts, and upon being furnished with such copy, drawing, print, or description, in writing or in print, as in the judgment of the said registrar shall be sufficient to identify the particular sculpture, model, copy, or cast in respect of which registration is desired, and the name of the person claiming to be proprietor, together with his place of abode or business or other place of address, or the name, style, or title of the firm under which he may be trading, shall register such sculpture, model, copy, or cast, in such manner and form as shall from time to time be prescribed or approved by the Board of Trade, for the whole or any part of the term during which copyright in such

sculpture, model, copy, or cast may or shall exist under the Sculpture Copyright Acts; and wherever any such registration shall be made, the said registrar shall certify under his hand and seal of office, in such form as the said board shall direct or approve, the fact of such registration, and the date of the same, and the name of the registered proprietor, or the style or title of the firm under which such proprietor may be trading, together with his place of abode or business or other place of address.

Penalty for making, selling, &c. copies of registered sculptures, &c.

VII. THAT if any person shall, during the continuance of the copyright in any sculpture, model, copy, or cast which shall have been so registered as aforesaid, make, import, or cause to be made, imported, exposed for sale, or otherwise disposed of, any pirated copy or pirated cast of any such sculpture, model, copy, or cast, in such manner and under such circumstances as would entitle the proprietor to a special action on the case under the Sculpture Copyright Acts, the person so offending shall forfeit for every such offence a sum not less than five pounds, and not exceeding thirty pounds, to the proprietor of the sculpture, model, copy, or cast whereof the copyright shall have been infringed; and for the recovery of any such penalty the proprietor of the sculpture, model, copy, or cast which shall have been so pirated shall have and be entitled to the same remedies as are provided for the recovery of penalties incurred under the Designs Act, 1842: Provided always, that the proprietor of any sculpture, model, copy, or cast which shall be registered under this Act shall not be entitled to the benefit of this Act, unless every copy or cast of such sculpture, model, copy, or cast which shall be published by him after such registration shall be marked with the word "registered," and with the date of registration.

5 & 6 Vict. c. 100.

Copies published by proprietor of registered sculpture, &c. to be marked as "registered."

Designs for ornamenting ivory, &c. may be registered in class 4 under Designs Act, 1842.

VIII. THAT designs for the ornamenting of ivory, bone, papier maché, and other solid substances not already comprised in the classes numbered 1, 2, or 3 in the Designs Act, 1842, shall be deemed and taken to be comprised within the class numbered 4 in that Act, and such designs shall be so registered accordingly.

Board of Trade may extend for 3 years the copyright in designs registered under Act of 1842.

IX. THAT the Board of Trade may from time to time order that the copyright of any class of designs or any particular design registered or which may be registered under the Designs Act, 1842, may be extended for such term, not exceeding the additional term of three years, as the said board may think fit, and the said board shall have power to revoke or alter any such order as may from time to time appear necessary; and whenever any order shall be made by the said board under this provision, the same shall be registered in the office for the registration of designs; and during the extended term the protection and benefits conferred by the said Designs Acts shall continue as fully as if the original term had not expired.

Regulations for the registration or provisional registration of designs may be made by Board of Trade.

Regulations to be published in London Gazette, laid before Parliament, and notified.

X. That the Board of Trade may from time to time make, alter, and revoke rules and regulations with respect to the mode of registration, and the documents and other matters and particulars to be furnished by persons effecting registration and provisional registration under the said Acts and this Act: Provided always, that all such rules and regulations shall be published in the London Gazette, and shall forthwith upon the issuing thereof be laid before Parliament, if Parliament be sitting, and if Parliament be not sitting, then within fourteen days after the commencement of the then next session; and such rules and regulations, or any of them, shall be published or notified by the registrar of designs in such other manner as the Board of Trade shall think fit to direct.

Registrar of designs may dispense with copies, drawings, &c. in certain cases, allowing specification or description in lieu thereof.

XI. That if in any case in which the registration of a design is required to be made under either of the said Designs Acts it shall appear to the registrar that copies, drawings, or prints, as required by those Acts, cannot be furnished, or that it is unreasonable or unnecessary to require the same, the said registrar may dispense with such copies, drawings, or prints, and may allow in lieu thereof such specification or description in writing or in print as may be sufficient to identify and render intelligible the design in respect of which registration is desired; and whenever registration shall be so made in the absence of such copies, drawings, or prints, the registration shall be as valid and effectual, to all intents and purposes, as if such copies, drawings, or prints had been furnished.

Public books and documents in the Designs Office not to be removed for production in legal proceedings without judge's order.

XII. That in order to prevent the frequent and unnecessary removal of the public books and documents in the Office for the Registration of Designs, no book or document in the said office shall be removed for the purpose of being produced in any court or before any justice of the peace, without a special order of a judge of the Court of Chancery, or of one of her Majesty's superior courts of law, first had and obtained by the party who shall desire the production of the same.

Judges may order copies of registrations, drawings, or documents to be furnished by registrar, for the purpose of being given in evidence.

XIII. That if application shall be made to a judge of any of her Majesty's courts of law at Westminster by any person desiring to obtain a copy of any registration, entry, drawing, print, or document, of which such person is not entitled as of right to have a copy, for the purpose of being used in evidence in any cause, or otherwise howsoever, and if such judge shall be satisfied that such copy is bonâ fide intended for such purpose as aforesaid, such judge shall order the registrar of designs to deliver such copy to the party applying, and the registrar of designs shall, upon payment for the same of such fee or fees as may be fixed according to the provisions of the said Designs Act in this behalf, deliver such copy accordingly.

Copies de-

XIV. That every copy of any registration, entry, drawing, print, or

document delivered by the registrar of designs to any person requiring the same shall be signed by the said registrar, and sealed with his seal of office; and every document sealed with the said seal, purporting to be a copy of any registration, entry, drawing, print, or document, shall be deemed to be a true copy of such registration, entry, drawing, print, or document, and shall, without further proof, be received in evidence before all courts, in like manner and to the same extent and effect as the original book, registration, entry, drawing, print, or document would or might be received if tendered in evidence, as well for the purpose of proving the contents, purport, and effect of such book, registration, entry, drawing, print, or document, as also proving the same to be a book, registration, entry, drawing, print, or document of or belonging to the said office, and in the custody of the registrar of designs.

livered by the registrar to be sealed, and to be evidence.

XV. That the several provisions contained in the said Designs Acts (so far as they are not repugnant to the provisions of this Act) relating to the transfer of designs, to cancelling and amending registration, to the refusal of registration in certain cases, to the mode of recovering penalties, to the awarding and recovery of costs, to actions for damages, to the limitation of actions, to the certificate of registration, to penalties for wrongfully using marks, to the fixing and application of fees for registration, and to the penalty for extortion, shall apply to the registration, provisional registration, and transfer of designs, sculptures, models, copies, and casts, and to the designs, sculptures, models, copies, and casts entitled to protection under this Act, and to matters under this Act, as fully and effectually as if those provisions had been re-enacted in this Act with respect to designs, sculptures, models, copies, and casts registered and provisionally registered under this Act; and the forms contained in the Designs Act, 1842, may for the purposes of this Act be varied so as to meet the circumstances of the case.

Certain provisions of Designs Acts, 1842 and 1843, extended to this Act.

XVI. That in the interpretation of this Act the following terms and expressions shall have the meanings herein-after assigned to them, unless such meanings shall be repugnant to or inconsistent with the context or subject matter; that is to say,

Interpretation of terms.

The expression "Designs Act, 1842," shall mean an Act passed in the sixth year of the reign of her present Majesty, intituled "An Act to consolidate and amend the laws relating to the copyright of designs for ornamenting articles of manufacture":

The expression "Designs Act, 1843," shall mean an Act passed in the seventh year of her present Majesty, intituled "An Act to amend the laws relating to the copyright of designs":

The expression "Sculpture Copyright Acts" shall mean two Acts passed respectively in the thirty-eighth and fifty-fourth years of the reign of

King George the Third, and intituled respectively "An Act for encouraging the art of making new models and casts of busts and other things herein mentioned," [a] and "An Act to amend and render more effectual an Act for encouraging the art of making new models and casts of busts and other things therein mentioned":

The expression "the Board of Trade" shall mean the lords of the committee of Privy Council for the consideration of all matters of trade and plantations:

The expression "registrar of designs" shall mean the registrar or assistant registrar of designs for articles of manufacture:

The expression "proprietor" shall be construed according to the interpretation of that word in the said Designs Act, 1842:

And words in the singular number shall include the plural, and words applicable to males shall include females.

Short title.

XVII. That in citing this Act in other Acts of Parliament, and in any instrument, document, or proceeding, it shall be sufficient to use the words and figures following, that is to say, "The Designs Act, 1850."

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14 & 15 VICTORIA. A. D. 1851.

Chapter LXXXI.

An Act to authorize the Removal from India of Insane Persons charged with Offences, and to give better Effect to Inquisitions of Lunacy taken in India.

[*7th August 1851.*]

Whereas it is expedient to made provision for the several purposes hereinafter mentioned: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Power to remove from India to the United Kingdom persons indicted for crimes and offences, and acquitted or not tried on the ground of insanity.

I. That if any person shall have been or shall hereafter be indicted for or charged with any crime or offence in any court in India, and shall have been or shall hereafter be acquitted of or not be tried for such crime or offence on the ground of his being found to be of unsound mind, and shall by reason of the premises be lawfully in custody in India, it shall be lawful for the person or persons administering the government of the presidency in which such person shall be so in custody to order such person to be removed from India to any part of the United Kingdom, there to abide the order of her Majesty

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[a Section 16, so far as it relates to the Act of the thirty-eighth year of King George the Third therein mentioned, is repealed, Stat. Law Rev. Act, 1875.]

concerning his or her safe custody, and to give such directions for enabling such order to be carried into effect as may be deemed fit and proper.

Order of government of any presidency to be a sufficient warrant and authority for the removal.

II. THAT the orders and directions of the said government of any of the said presidencies for the removal of any person under the provisions of this Act shall be a sufficient warrant and authority to all commanders of vessels and others, to whom the care and custody of any such person shall be committed, for the removal of such person from India to the United Kingdom in conformity with such directions, and for his detention in custody there until an order shall be made by her Majesty as herein-after is mentioned; and that upon the arrival of any such person in the United Kingdom it shall be lawful for her Majesty to give such order for the safe custody of such person during her pleasure in such place and in such manner as to her Majesty shall seem fit, in like manner as if such person had been indicted for an offence and found insane, and were thereby subject to the provisions of the Act passed in the thirty-ninth and fortieth year of his late Majesty King George the Third, intituled "An Act for the safe custody of insane persons charged with offences."

Order for custody on arrival in United Kingdom.

39&40 Geo. 3. c. 94.

Expenses of removal to be charged upon the revenues of India.

III. THAT all expenses attending the removal from India and the safe custody and maintenance in Great Britain or Ireland of all such persons as aforesaid shall be borne and defrayed by the East India Company, who are hereby authorized to charge the amount of such expenses upon the revenues of the government of India.

Expenses to be a debt due from the lunatic, and be secured by a judgment in England and Ireland, and by decree of registration in Scotland, &c.

IV. THAT the amount of all expenses incurred by the East India Company in respect of the removal and custody of any such person as aforesaid shall be a debt from such person to the East India Company; and that for securing the payment thereof the East India Company shall be entitled to enter up against such person as of the date of the order for removal from India any judgment in England or Ireland in an amount sufficient to secure the payment of all expenses incurred and to be incurred in respect of the matters aforesaid, and the costs of ascertaining the same as after mentioned; and on production at the office in Edinburgh for the registration of writs in the books of council and session of a copy of any order of the court of directors directing such judgment to be entered up, certified by the secretary of the said company, such order shall be registered in the said books in like manner as a bond executed according to the law of Scotland with a clause of registration, and decree shall be interponed thereon, which shall have the like effect as if such person had executed such bond, but without prejudice to the provisions herein contained for ascertaining the sum actually due; and that upon application to be from time to time made to the Lord Chancellor of Great Britain in England or Chancellor in Ireland, being intrusted with the care of persons of

unsound mind, or the Court of Session in Scotland, the amount of such expenses reasonably and properly incurred shall be ascertained by a reference to one of the masters of the Court of Chancery, or by a remit to the accountant of the Court of Session, or otherwise, in such manner as the person or persons to whom such application shall be made shall direct; and the East India Company shall be entitled from time to time to recover payment of the amount so ascertained, and the costs of ascertaining the same, by proceeding on the judgment in England or Ireland, and registered order and decree in Scotland, and enforcing the same against the property but not against the person of the debtor, in the same manner as if such judgment had at the date of the said order of removal been recovered against the debtor when of sound mind, and had been entered up at the date of such order, or as if such bond had been granted by the debtor when of sound mind at the date of such order, and had been duly registered in the books of council and session, and a decree of the Court of Session interponed thereto.

Lunatics and idiots may be removed from India to the United Kingdom by orders of the supreme courts at the several presidencies.

V. THAT in all cases where a guardian, keeper or curator of the person and estate of any idiot, lunatic, or person of unsound mind shall have been or shall be appointed by the Supreme Court of Judicature at any of the presidencies of India, it shall be lawful for such supreme court to declare that such person ought to be removed from India to any part of the United Kingdom, and thereupon to make such further or other order or orders authorizing or directing his removal, and touching his safe custody and maintenance, as to such supreme court shall seem fit and proper: Provided always, that in every such case a transcript of the proceedings in the matter of the idiotcy or lunacy of such person shall, under the provisions herein-after contained, be transmitted to that part of the United Kingdom to which such person shall be removed.

Transcript of proceedings to be transmitted to the United Kingdom and entered of record, and to be acted upon as if the proceedings had been taken in the United Kingdom.

VI. THAT in all cases where a guardian, keeper, or curator of the person and estate of any idiot, lunatic, or person of unsound mind, shall have been or shall be appointed by any of the supreme courts in India as aforesaid, it shall be lawful for the proper officer of the said supreme court by the order of such court to transmit a transcript, under the hand and seal of the chief justice or senior judge of such supreme court, of the proceedings by which the idiotcy, lunacy, or unsoundness of mind shall have been found, and by which such guardian, keeper, or curator shall have been appointed, to the Chancery in England and the Court of Session in Scotland and the Chancery of Ireland respectively, as the case may require; and that such transcript, when so received, shall be entered as of record in the court or courts to which the same shall be transmitted; and that in the case of any supersedeas of any such proceedings, the same shall be certified and transmitted and recorded in like manner; and that the record of any such proceedings or of any such supersedeas

as aforesaid shall, in case and so long and so far as the Lord Chancellor of Great Britain or other persons intrusted as aforesaid, or the Court of Session in Scotland, or the Chancellor of Ireland intrusted as aforesaid, (as the case may require,) shall respectively see fit, be acted upon by him and them respectively, and be of the same force and validity, and have the same force and effect, as if such proceedings or supersedeas, or proceedings or a supersedeas to the like effect, had taken place in England, Scotland, or Ireland respectively; and it shall be lawful for the Lord Chancellor or other persons intrusted as aforesaid, the Court of Session in Scotland, and the Chancellor of Ireland intrusted as aforesaid respectively, from time to time to make and give all such orders or directions by appointing any committee or committees, curator or curators, or otherwise, as may appear necessary or proper for securing proper care and protection to the person and estate of such idiot, lunatic, or person of unsound mind.

VII. That the powers and authorities given by this Act to the Lord Chancellor of Great Britain or other persons intrusted as aforesaid shall and may be exercised in like manner by and are hereby given to the Lord Keeper or Commissioners of the Great Seal of Great Britain, or any other person or persons for the time being intrusted as aforesaid; and the powers and authorities given by this Act to the Lord Chancellor of Ireland intrusted as aforesaid shall and may be exercised in like manner by and are hereby given to the Lord Keeper or Commissioners of the Great Seal of Ireland, or any other person or persons for the time being intrusted as aforesaid.

Powers hereby given to the Lord Chancellor shall extend to Lord Keeper and Commissioners of the Great Seal, &c. in England and Ireland respectively.

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15 VICTORIA. A. D. 1852.

Chapter XII.

An Act to enable Her Majesty to carry into effect a Convention with France on the Subject of Copyright; to extend and explain the International Copyright Acts; and to explain the Acts relating to Copyright in Engravings.

[*28th May 1852.*]

Whereas an Act was passed in the seventh year of the reign of her present Majesty, intituled "An Act to amend the law relating to international copyright," herein-after called "The International Copyright Act": And whereas a convention has lately been concluded between her Majesty and the French Republic, for extending in each country the enjoyment of copyright in works of literature and the fine arts first published in the other, and for certain reductions of duties now levied on books, prints, and musical works published in France: And whereas certain of the stipulations on the part of

7 & 8 Vict. c. 12.

her Majesty contained in the said treaty require the authority of Parliament: And whereas it is expedient that such authority should be given; and that her Majesty should be enabled to make similar stipulations in any treaty on the subject of copyright which may hereafter be concluded with any foreign power: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Translations.

Repeal of 7 & 8 Vict. c. 12. s. 18. in part.

I. The eighteenth section of the said Act of the seventh year of her present Majesty, chapter twelve, shall be repealed, so far as the same is inconsistent with the provisions herein-after contained.

Her Majesty may by order in council direct that the authors of books published in foreign countries may for a limited time prevent unauthorized translations.

II. Her Majesty may, by order in council, direct that the authors of books which are, after a future time to be specified in such order, published in any foreign country to be named in such order, their executors, administrators, and assigns, shall, subject to the provisions herein-after contained or referred to, be empowered to prevent the publication in the British dominions of any translations of such books not authorized by them, for such time as may be specified in such order, not extending beyond the expiration of five years from the time at which the authorized translations of such books herein-after mentioned are respectively first published, and in the case of books published in parts, not extending as to each part beyond the expiration of five years from the time at which the authorized translation of such part is first published.

Thereupon the law of copyright shall extend to prevent such translations.

III. Subject to any provisions or qualifications contained in such order, and to the provisions herein contained or referred to, the laws and enactments for the time being in force for the purpose of preventing the infringement of copyright in books published in the British dominions shall be applied for the purpose of preventing the publication of translations of the books to which such order extends which are not sanctioned by the authors of such books, except only such parts of the said enactments as relate to the delivery of copies of books for the use of the British Museum, and for the use of the other libraries therein referred to.

Her Majesty may by order in council direct that the authors of dramatic works represented in foreign countries may for a limited time prevent the representation of unauthorized translations.

IV. Her Majesty may, by order in council, direct that authors of dramatic pieces which are, after a future time to be specified in such order, first publicly represented in any foreign country to be named in such order, their executors, administrators, and assigns, shall, subject to the provisions herein-after mentioned or referred to, be empowered to prevent the representation in the British dominions of any translation of such dramatic pieces not authorized by them, for such time as may be specified in such order, not extending beyond the expiration of five years from the time at which the authorized translations of such dramatic pieces herein-after mentioned are first published or publicly represented.

V. SUBJECT to any provisions or qualifications contained in such last-mentioned order, and to the provisions herein-after contained or referred to, the laws and enactments for the time being in force for ensuring to the author of any dramatic piece first publicly represented in the British dominions the sole liberty of representing the same shall be applied for the purpose of preventing the representation of any translations of the dramatic pieces to which such last-mentioned order extends, which are not sanctioned by the authors thereof.

Thereupon the law for protecting the representation of dramatic pieces shall extend to prevent the representation of such unauthorized translations.

VI. NOTHING herein contained shall be so construed as to prevent fair imitations or adaptations to the English stage of any dramatic piece or musical composition published in any foreign country.

Saving as to imitations of dramatic pieces, &c.

VII. NOTWITHSTANDING anything in the said International Copyright Act or in this Act contained, any article of political discussion which has been published in any newspaper or periodical in a foreign country, may, if the source from which the same is taken be acknowledged, be republished or translated in any newspaper or periodical in this country; and any article relating to any other subject which has been so published as aforesaid may, if the source from which the same is taken be acknowledged, be republished or translated in like manner, unless the author has signified his intention of preserving the copyright therein, and the right of translating the same, in some conspicuous part of the newspaper or periodical in which the same was first published, in which case the same shall, without the formalities required by the next following section, receive the same protection as is by virtue of the International Copyright Act or this Act extended to books.

Articles in foreign newspapers, &c. relating to politics may be republished or translated if the source be acknowledged; and also articles on other subjects, unless the author has signified his intention of preserving the copyright.

VIII. No author, or his executors, administrators, or assigns, shall be entitled to the benefit of this Act, or of any order in council issued in pursuance thereof, in respect of the translation of any book or dramatic piece, if the following requisitions are not complied with; (that is to say,)

No author to be entitled to benefit of this Act or any order in council pursuant thereto, without complying with the requisitions herein specified.

1. The original work from which the translation is to be made must be registered and a copy thereof deposited in the United Kingdom in the manner required for original works by the said International Copyright Act, within three calendar months of its first publication in the foreign country:
2. The author must notify on the title page of the original work, or, if it is published in parts, on the title page of the first part, or, if there is no title page, on some conspicuous part of the work, that it is his intention to reserve the right of translating it:
3. The translation sanctioned by the author, or a part thereof, must be published either in the country mentioned in the order in council by virtue of which it is to be protected, or in the British dominions, not

later than one year after the registration and deposit in the United Kingdom of the original work; and the whole of such translation must be published within three years of such registration and deposit:

4. Such translation must be registered and a copy thereof deposited in the United Kingdom within a time to be mentioned in that behalf in the order by which it is protected, and in the manner provided by the said International Copyright Act for the registration and deposit of original works:
5. In the case of books published in parts, each part of the original work must be registered and deposited in this country in the manner required by the said International Copyright within three months after the first publication thereof in the foreign country:
6. In the case of dramatic pieces the translation sanctioned by the author must be published within three calendar months of the registration of the original work:
7. The above requisitions shall apply to articles originally published in newspapers or periodicals, if the same be afterwards published in a separate form, but shall not apply to such articles as originally published.

Pirated copies prohibited to be imported, except with consent of proprietor.

IX. ALL copies of any works of literature or art wherein there is any subsisting copyright by virtue of the International Copyright Act and this Act, or of any order in council made in pursuance of such Acts or either of them, and which are printed, reprinted, or made in any foreign country except that in which such work shall be first published, and all unauthorized translations of any book or dramatic piece the publication or public representation in the British dominions of translations whereof, not authorized as in this Act mentioned, shall for the time being be prevented under any order in council made in pursuance of this Act, are hereby absolutely prohibited to be imported into any part of the British dominions, except by or with the consent of the registered proprietor of the copyright of such work or of such book or piece, or his agent authorized in writing; and the provision of the Act of the sixth year of her Majesty "to amend the law of copyright," for the forfeiture, seizure, and destruction of any printed book first published in the United Kingdom wherein there shall be copyright, and reprinted in any country out of the British dominions, and imported into any part of the British dominions by any person not being the proprietor of the copyright, or a person authorized by such proprietor, shall extend and be applicable to all copies of any works of literature and art, and to all translations, the importation whereof into any part of the British dominions is prohibited under this Act.

Provisions of 5 & 6 Vict. c. 45. as to forfeiture, &c. of pirated works, &c. to extend to works prohibited to be imported under this Act.

X. THE provisions herein-before contained shall be incorporated with the International Copyright Act, and shall be read and construed therewith as one Act.

Foregoing provisions to be incorporated with 7 & 8 Vict. c. 12.

XI. AND whereas her Majesty has already, by order in council under the said International Copyright Act, given effect to certain stipulations contained in the said convention with the French Republic; and it is expedient that the remainder of the stipulations on the part of her Majesty in the said convention contained should take effect from the passing of this Act without any further order in council: During the continuance of the said convention, and so long as the order in council already made under the said International Copyright Act remains in force, the provisions herein-before contained shall apply to the said convention, and to translations of books and dramatic pieces which are, after the passing of this Act, published or represented in France, in the same manner as if her Majesty had issued her order in council in pursuance of this Act for giving effect to such convention, and had therein directed that such translations should be protected as herein-before mentioned for a period of five years from the date of the first publication or public representation thereof respectively, and as if a period of three months from the publication of such translation were the time mentioned in such order as the time within which the same must be registered and a copy thereof deposited in the United Kingdom.

Translations of French books, &c. to be protected as herein-before mentioned, during the continuance of the existing convention and of the order in council already made without further order in council.

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Lithographs, &c.

XIV. AND whereas by the four several Acts of Parliament following; (that is to say,) an Act of the eighth year of the reign of King George the Second, chapter thirteen; an Act of the seventh year of the reign of King George the Third, chapter thirty-eight; an Act of the seventeenth year of the reign of King George the Third, chapter fifty-seven; and an Act of the seventh year of King William the Fourth, chapter fifty-nine; provision is made for securing to every person who invents, or designs, engraves, etches, or works in mezzotinto or chiaro-oscuro, or, from his own work, design, or invention, causes or procures to be designed, engraved, etched, or worked in mezzotinto or chiaro-oscuro, any historical print or prints, or any print or prints of any portrait, conversation, landscape, or architecture, map, chart, or plan, or any other print or prints whatsoever, and to every person who engraves, etches, or works in mezzotinto or chiaro-oscuro, or causes to be engraved, etched, or worked any print taken from any picture, drawing, model, or sculpture, notwithstanding such print has not been graven or drawn from his own original design, certain copyrights therein defined: And whereas doubts are entertained whether the provisions of the said Acts extend to lithographs and certain other impressions; and it is expedient to remove such doubts:

Recital of 8 Geo. 2. c. 13. 7 Geo. 3. c. 38. 17 Geo. 3. c. 57. 6 & 7 Will. 4. c. 59.

Provisions of recited Acts shall include lithographs, &c.

It is hereby declared, that the provisions of the said Acts are intended to include prints taken by lithography, or any other mechanical process by which prints or impressions of drawings or designs are capable of being multiplied indefinitely; and the said Acts shall be construed accordingly.

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15 & 16 VICTORIA. A. D. 1852.

Chapter XXVI.

An Act to enable Her Majesty to carry into effect Arrangements made with Foreign Powers for the Apprehension of Seamen who desert from their Ships.

[*17th June 1852.*]

Whereas arrangements have been made with certain foreign powers for the recovery of seamen deserting from the ships of such powers when in British ports, and for the recovery of seamen deserting from British ships when in the ports of such powers: And whereas it is expedient to enable her Majesty to carry such arrangements into effect, and likewise to enable her Majesty to carry into effect any similar arrangements of a like nature which may be made hereafter: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Her Majesty may by order in council declare that deserters from foreign merchant ships may be apprehended and given up.

I. Whenever it is made to appear to her Majesty that due facilities are or will be given for recovering and apprehending seamen who desert from British merchant ships in the territories of any foreign power, her Majesty may, by order in council stating that such facilities are or will be given, declare that seamen, not being slaves, who desert from merchant ships belonging to a subject of such power, when within her Majesty's dominions . . . . . , shall be liable to be apprehended and carried on board their respective ships, and may limit the operation of such order, and may render the operation thereof subject to such conditions and qualifications, if any, as may be deemed expedient.

Upon publication of order in council justices, &c. shall aid in apprehending deserters from such ships and cause them to be conveyed on board ship.

II. Upon such publication as herein-after mentioned of any such order in council, then, during such time as the same remains in force, and subject to such limitations and qualifications, if any, as may be therein contained, every justice of the peace or other officer having jurisdiction in the case of seamen who desert from British merchant ships in her Majesty's dominions . . . . . shall, on application being made by a consul of the foreign power to which such order in council relates, or his deputy or representative, aid in apprehending any seaman or apprentice who deserts from any merchant ship

belonging to a subject of such power, and may for that purpose, upon complaint on oath duly made, issue his warrant for the apprehension of any such deserter, and, upon due proof of the desertion, order him to be conveyed on board the vessel to which he belongs, or to be delivered to the master or mate of such vessel, or to the owner of such vessel or his agent, to be so conveyed; and thereupon it shall be lawful for the person ordered to convey such deserter, or for the master or mate of such vessel, or the owner or his agent, (as the case may require,) to convey him on board accordingly.

Penalty on persons harbouring such deserters.

III. If any person protects or harbours any deserter who is liable to be apprehended under this Act, knowing or having reason to believe that he has deserted, such person shall for every offence be liable to a penalty not exceeding ten pounds; and every such penalty shall be recovered, paid, and applied in the same manner as penalties for harbouring or protecting deserters from British merchant ships.

Orders to be published in the London Gazette.

IV. Every order in council to be made under the authority of this Act shall be published in the London Gazette as soon as may be after the making thereof.

Orders may be revoked or altered

V. Her Majesty may by order in council from time to time revoke or alter any order in council previously made under the authority of this Act.

Short title.

VI. This Act may be cited as the "Foreign Deserters Act, 1852."

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15 & 16 VICTORIA. A. D. 1852.

Chapter XLIV.

An Act to amend and consolidate the Laws relating to the Carriage of Passengers by Sea.

[*30th June 1852.*]

Whereas it is expedient to amend and consolidate, and for that purpose to repeal, the existing laws relating to the carriage of passengers by sea: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Prefatory clauses.

Commencement of this Act, and repeal of former Acts, except as to existing liabilities, and except as to

I. On the first day of *October* next, when this Act shall commence and come into force, "The Passengers Act, 1849," and an Act of the fourteenth year of the reign of her present Majesty, chapter one, intituled *An Act to amend the Passengers Act*, 1849, shall be repealed; except so far as either of the said Acts repeals any former Act or enactment; and except so far as may be necessary for supporting or continuing any proceeding heretofore taken or hereafter to be taken upon any bond given under either of the said Acts, or upon

an order in council, dated 6th October 1849.

any other civil process; and except as to the recovery and application of any penalty for any offence committed against either of the said Acts before the commencement of this Act; and except also as to an order in council made by her Majesty, with the advice of her privy council, on the sixth day of *October* one thousand eight hundred and forty-nine, in pursuance of the powers given by the thirty-ninth section of "The Passengers Act, 1849," which said order in Council shall remain in force until altered or revoked by any order in council to be made under the provisions of this Act.

Short title.

II. In citing this Act in other Acts of Parliament, or in any instrument, document, or proceeding, it shall be sufficient to use the expression "The Passengers Act, 1852;" and in any process for enforcing the remedies or penalties given or imposed by this Act it shall be sufficient, without specifying more particularly the cause of complaint or offence, to refer by number, according to the copies of the Act printed by the Queen's printer, to the section or sections under which the proceeding is taken.

In legal proceedings, reference to sections of this Act by number sufficient.

Definition of terms; viz.

"United Kingdom:" "North America:"

"West Indies" "governor:"

"statute adult:"

"passage" and "passengers:"

"passenger deck:"

III. For the purposes of this Act, the following terms, whenever they occur, shall respectively have the following significations; (that is to say,) the term "United Kingdom" shall signify *Great Britain* and *Ireland* and the Islands of *Guernsey, Jersey, Alderney, Sark, Scilly,* and *Man;* the term "*North America*" shall signify and include the *Bermudas*, and all ports and places on the eastern coast of the continent of *North America*, or in the islands adjacent or near thereto, or in the Gulf of *Mexico* north of the tropic of Cancer; the term "*West Indies*" shall signify the *West India* Islands, the *Bahamas, British Guiana,* and *Honduras;* the term "governor" shall signify the person who for the time being shall be lawfully administering the government of any *British* colony in which he may be acting; the term "statute adult" shall signify a passenger of the age of fourteen years or upwards, or two passengers above the age of one year and under that of fourteen; the term "passage" shall include all passages except cabin passages; the term "passengers" shall include all passengers except cabin passengers, and except labourers under indenture to the *Hudson's Bay* Company, and their families, if conveyed in ships the property of or chartered by the said company, and no persons shall be deemed cabin passengers unless the space allotted to their exclusive use in the chief or second cabin shall be in the proportion of at least thirty-six clear square feet to each statute adult, nor unless they shall be messed at the same table with the master or first officer of the ship, nor unless the fare contracted to be paid by them respectively shall be in the proportion of at least twenty shillings for every week of the length of the voyage as computed for sailing vessels under the provisions of this Act; the term "passenger deck" shall signify the main deck and the deck immediately

below it, not being an orlop deck, or either of them, or any compartment thereof in which passengers may be berthed; the term "ship" shall signify any description of sea-going vessel, whether *British* or foreign; the term "passenger ship" shall signify every description of such ship carrying upon any voyage to which the provisions of this Act shall extend a greater number of passengers, when propelled by sails, than in the proportion of one "statute adult" to every twenty-five tons of the registered tonnage of such ship, and when propelled by steam than in the proportion of one statute adult to every ten tons of the registered tonnage of such ship; and the term "master" shall signify the person who shall be borne on the ship's articles as master, or who for the time being shall be in charge or command of any such ship or "passenger ship;" and, unless there be something in the subject matter or context repugnant thereto, every word importing the singular number or the masculine gender only shall include several persons, matters, or things, as well as one person, matter, or thing, and females as well as males, respectively; and every word importing the plural number shall include one person or thing as well as several persons or things.

"ship"

"passenger ship"

"master;"

number and gender.

IV. THIS Act shall extend to every "passenger ship" proceeding on any voyage from the United Kingdom to any place out of *Europe*, and not being within the *Mediterranean Sea*, and on every colonial voyage as herein-after described, but shall not extend to any of her Majesty's ships of war, nor to any ships in the service of the commissioners for executing the office of Lord High Admiral of the United Kingdom, nor to any ship of war or transport in the service of the *East India* Company, nor to any steam vessel carrying the royal mails or carrying mails under contract with the government of the country to which such steam vessel may belong.

To what vessels and voyages this Act shal extend.

V. AND whereas by a warrant under her Majesty's sign manual, bearing date on the twenty-seventh day of *November* one thousand eight hundred and forty-seven, her Majesty was pleased to appoint certain persons therein named to be, during her Majesty's pleasure, commissioners in the United Kingdom for the sale of the waste lands of the crown in her Majesty's colonies, and for superintending the emigration of the poorer classes of her Majesty's subjects to such colonies: And whereas it is expedient that such commissioners should be empowered to carry this Act into execution: Be it therefore enacted, that the said commissioners, and their successors for the time being, shall and they are hereby empowered to carry this Act into execution; and that for all legal purposes it shall be sufficient to describe such commissioners by the style of the "colonial land and emigration commissioners."

Commissioners of emigration to carry this Act into execution.

VI. THE colonial land and emigration commissioners for the time being

Emigration

commissioners may sue and be sued in the name of their secretary or of one of themselves.

may sue and be sued in the name of their secretary, or of any one of such commissioners for the time being, and legal or equitable proceedings taken by or against the said commissioners in the name of any one of them or of their secretary shall not abate nor be discontinued by the death or removal of such secretary or commissioner, but the secretary for the time being, or any one of such commissioners, shall always be deemed to be the plaintiff or defendant (as the case may be) in any such proceedings: Provided always, that the said commissioners and their secretary respectively shall in no case be personally liable, nor shall the private estate and effects of any of them be liable, for the payment of any monies or costs or otherwise in respect of any contract made or hereafter to be made by them or any of them, or in respect of any legal or equitable proceedings taken against them or any of them, or for any act, deed, or matter done or executed by them or any of them in their or his official capacity and on the public service.

The commissioners and their private estates exempt from liability.

Emigration officers and assistants to act under the commissioners, &c.

VII. In the United Kingdom the said commissioners acting under the sanction of one of her Majesty's principal secretaries of state, and in her Majesty's possessions abroad the respective governors thereof, may from time to time appoint, and the said commissioners and governors may at pleasure from time to time remove, such emigration officers and assistant emigration officers as they may respectively think necessary, for the purpose of carrying this Act into execution, under the direction of the said commissioners or governors, as the case may be: Provided nevertheless, that all existing appointments of emigration officers and of their assistants, as well in the United Kingdom as in her Majesty's possessions abroad, shall continue in force under this Act until duly revoked.

Existing appointments to continue until revoked.

Duties of emigration officer may be performed by his assistant, or by officer of customs.

VIII. All powers, functions, and duties to be exercised or performed by any such emigration officer shall be exercised and performed respectively by his assistant, or, at any port where there shall be no such emigration officer or assistant, or in their absence, by the chief officer of customs for the time being at such ports.

Facilities to be given to the proper officers for the inspection of all ships fitting for passengers.

IX. The master of every ship, whether a "passenger ship" or otherwise, fitting or intended for the carriage of passengers, or which shall carry passengers upon any voyage to which this Act extends, shall afford to such emigration officer or his assistant as aforesaid at any port or place in her Majesty's dominions, and, in the case of *British* ships, to her Majesty's consul at any foreign port or place at which such ship shall be or arrive, every facility for inspecting such ship, and for communicating with the passengers, and for ascertaining that the provisions of this Act, so far as the same may be applicable to such ships, have been duly complied with.

No passenger

X. No ship fitted or intended for the carriage of passengers as a "pas-

senger ship" shall clear out or proceed to sea until the master thereof shall have obtained from the emigration officer at the port of clearance a certificate under his hand that all the requirements of this Act, so far as the same can be complied with before the departure of such ship, have been duly complied with, nor until the master shall have joined in executing such bond to the crown as required by the fifty-ninth section of this Act.

Ship to be cleared out without a certificate from emigration officer, nor until bond be given to the crown.

XI. If any "passsenger ship" shall clear out or proceed to sea without the master's having first obtained such certificate, or without his having joined in executing such bond, as by this Act is required, such ship shall be forfeited to the use of her Majesty, and may be seized by any officer of customs, if found, within two years from the commission of the offence, in any port or place in the United Kingdom or in her Majesty's possessions abroad; and such ship shall thereupon be dealt with in the same manner as if she had been seized as forfeited under any of the laws relating to the customs for an offence incurring forfeiture under those laws.

Passenger ships clearing out without certificate, or bond being given to the crown, forfeited, &c.

Such ship to be dealt with as if seized under laws relating to customs.

Arrangements for the ship.

XII. No ship shall clear out or shall proceed to sea with a greater number of passengers on board (exclusive of *bonâ fide* cabin passengers) than will allow of the appropriation to them of the following space on the "passenger decks," unoccupied by stores, not being the personal luggage of the passengers; (that is to say,) if the ship is not intended to pass within the tropics, twelve clear superficial feet for every statute adult; but if the ship is intended to pass within the tropics, fifteen such clear superficial feet for every statute adult: Nor (unless the ship be propelled by steam) with a greater number of persons on board (including the master and crew, and cabin passengers, if any, and counting two children above the age of one year and under that of fourteen as one person,) than in the proportion of one person to every two tons of the registered tonnage of such ship. If there shall be on board of any ship at or after the time of clearance a greater number either of persons or of passengers than in the proportions respectively herein-before mentioned, the master of such ship shall be liable, on such conviction as hereinafter is mentioned, to a penalty not exceeding five pounds nor less than two pounds sterling for each person or passenger constituting any such excess.

Passengers to be carried only on the "passenger decks."

Number to be limited both by tonnage and space.

Penalty for excess of persons on Board.

XIII. The master of every ship, whether a "passenger ship" or otherwise, carrying passengers on any voyage to which this Act extends, shall, before demanding a clearance for such ship, sign two lists, made out according to the form contained in schedule (A) hereto annexed, correctly setting forth in the manner therein directed the name and other particulars of the ship, and of every passenger on board thereof; and the said lists, when countersigned by the emigration officer, where there is one at the port, shall be delivered by the master to the officer of the customs from whom a clearance of the said

Two lists of passengers to be made out in the form in schedule (A), and delivered in every case before clearance.

Arrangements for the ship.

ship shall be demanded, and such officer shall thereupon also countersign and return to the said master one of such lists, herein-after called "the master's list;" and the said master shall exhibit such last-mentioned list, with any additions which may from time to time be made thereto, as herein-after directed, to the chief officer of her Majesty's customs at any port or place in her Majesty's possessions, or to her Majesty's consul at any foreign port at which the said passengers or any of them shall be landed, and shall deposit the same with such chief officer of customs, or such consul, as the case may be, at the final port or place of discharge.

Lists of additional passengers taken on board after clearance to be made out, and signed by master.

XIV. If at any time after such lists shall have been signed and delivered as aforesaid any additional passenger shall be taken on board, in every such case the master shall, according to the form aforesaid, add to "the master's list" the names and other particulars of every such additional passenger, and shall also sign a separate list, made out according to the form aforesaid, containing the names and other particulars of every such additional passenger; and such last-mentioned list, when countersigned by the emigration officer, where there is one at the port, shall, together with "the master's list" to which such addition shall have been made, be delivered to the chief officer of customs as aforesaid, and thereupon such officer shall countersign "the master's list," and shall return the same to the said master, and shall retain the separate list; and so on in like manner whenever any additional passenger or passengers may be taken on board; or if no officer of customs shall be stationed at the port or place where such additional passenger or passengers may be taken on board, the said lists shall be delivered to the officer of customs at the next port or place at which such vessel shall touch or arrive and where any such officer shall be stationed, to be dealt with as herein-before mentioned: Provided, that when any additional passengers shall be taken on board the master shall obtain a fresh certificate from the emigration officer of the port that all the requirements of this Act have been duly complied with, before the ship shall proceed to sea, and in default thereof shall be liable to a penalty for each offence not exceeding fifty pounds.

Penalty on persons found on board attempting fraudulently to obtain a passage, and on persons aiding and abetting.

XV. If any person shall be found on board any passenger ship, with intent to obtain a passage therein without the knowledge and consent of the owner, charterer, or master thereof, such person, and every person aiding and abetting him in such fraudulent intent, shall respectively be liable, on such summary conviction as herein-after mentioned, to a penalty not exceeding five pounds, and in default of payment to imprisonment, with hard labour, for a period not exceeding three calendar months; and such person so found on board may be taken before any justice of the peace, without warrant, and such justice may hear the case, and on proof of the offence convict such offender as aforesaid.

Arrangements for the ship.

All passenger ships to be surveyed before clearing out.

XVI. No "passenger ship" shall clear out or proceed to sea unless she shall have been surveyed, under the direction of the emigration officer at the port of clearance, but at the expense of the owner or charterer thereof, by two or more competent surveyors, to be appointed by the said colonial land and emigration commissioners for each port at which there may be an emigration officer, and for other ports by the commissioners of customs, nor unless it shall be reported by such surveyors, that such "passenger ship" is in their opinion seaworthy, and fit in all respects for her intended voyage: Provided always, that in case any "passenger ship" shall be reported by any such surveyors not to be seaworthy, nor fit in all respects for her said intended voyage, the owner or charterer, if he shall think fit, may require, by writing under his hand, the emigration officer, or in his absence the chief officer of customs, to appoint three other competent surveyors, of whom two at least shall be shipwrights, to survey the said ship, at the expense of the said owner or charterer; and the said officer shall thereupon appoint such surveyors, who shall survey the said ship, and if they shall, by an unanimous report under their hands (but not otherwise), declare the said ship to be seaworthy, and fit in all respects for her intended voyage, the said ship shall then, for the purposes of this Act, be deemed seaworthy for such voyage.

Beams and decks.

XVII. In every "passenger ship" the beams supporting the "passenger decks" shall form part of the permanent structure of the ship: They shall be of adequate strength, in the judgment of the emigration officer at the port of clearance, and shall be firmly secured to the ship to the satisfaction of such officer; the "passenger decks" shall be at least one inch and a half in thickness, and shall be laid and firmly fastened upon the beams continuously from side to side of the compartment in which the passengers are berthed, or substantially secured to the beams, at least three inches clear above the bottom thereof, to the satisfaction of such emigration officer: the height between any deck on which passengers are carried and the deck immediately above it shall not be less than six feet.

As to arrangement and size of berths.

XVIII. There shall not be more than two tiers of berths on any one deck in any "passenger ship," and the interval between the floor of the berths and the deck immediately beneath them shall not be less than six inches: The berths shall be securely constructed, and of dimensions not less than after the rate of six feet in length and eighteen inches in width for each statute adult, and shall be sufficient in number for the proper accommodation of all the passengers contained in the lists of passengers herein-before required to be delivered by the master of the ship.

Single men to be berthed in a separate compartment.

XIX. In every passenger ship all the unmarried male passengers of the age of fourteen years and upwards shall, to the satisfaction of the emigration

Arrangement for the ship.

officer at the port of clearance, be berthed in the fore part of the ship, in a compartment divided off from the space appropriated to the other passengers by a substantial and well-secured bulkhead, or in separate rooms, if the ship be divided into compartments, and fitted with enclosed berths: Not more than two passengers, unless members of the same family, shall be placed in the same berth: Nor in any case shall persons of different sexes above the age of fourteen, unless husband and wife, be placed in the same berth.

As to numbers and sexes in one berth.

Berths not to be removed till passengers landed.

XX. No berths in a "passenger ship" occupied by passengers during the voyage shall be taken down until forty-eight hours after the arrival of such ship at the port of final discharge, unless all the passengers shall have voluntarily quitted the ship before the expiration of that time.

A space in every ship to be set apart for an hospital.

XXI. In every "passenger ship" a space shall be properly divided off to the satisfaction of the emigration officer at the port of clearance, and set apart for an hospital, not less, in ships carrying as many as one hundred statute adults, than fifty-six clear superficial feet, with four bed-berths erected therein, and properly suppled with bedding, nor less, in vessels carrying three hundred or more statute adults, than one hundred and twenty clear superficial feet, with at least eight bed-berths properly supplied as aforesaid.

As to fitting up of privies.

XXII. No "passenger ship" shall clear out or proceed to sea unless fitted, to the satisfaction of the emigration officer at the port of clearance, with at least two privies, and with two additional privies for every one hundred passengers on board, which shall be maintained in a serviceable condition throughout the voyage; provided that such privies shall be placed in equal numbers on each side of the ship, and need not in any case exceed twelve in number.

Directions as to light and ventilation.

XXIII. No "passenger ship" having on board as many as one hundred statute adults shall clear out or proceed to sea without having on board an adequate and proper ventilating apparatus, to be approved by the emigration officer at the port of clearance, and fitted to his satisfaction; and in every "passenger ship" the passengers, whatever be their number, shall at all times during the voyage (weather permitting) have free access to and from the between decks by the whole of each hatchway situate over the space appropriated to the use of such passengers: If, however, the main hatchway be not one of the hatchways appropriated to the use of the passengers, or if the natural supply of light and air through the same be in any manner unduly impeded, the emigration officer at the port of clearance may direct such other provision to be made for affording light and air to the between decks as the circumstances of the case may, in his judgment, appear to require; and in case of non-compliance with any such directions, or in case such ship shall be cleared out or proceed to sea without such ventilating apparatus, the owner, charterer, or master of such ship shall be liable, on such

Penalty on non-compliance with such directions.

conviction as hereinafter is mentioned, to a penalty not exceeding fifty pounds nor less than twenty pounds sterling.

Arrangements for the ship.

XXIV. Every "passenger ship" shall carry a number of boats according to the following scale; (that is to say,)

Passenger ships shall carry boats.

Two boats for every ship of one hundred tons and upwards:

Three boats for every ship of two hundred tons and upwards, if the number of statute adults on board shall exceed fifty:

Four boats for every ship of five hundred tons and upwards, if the number of statute adults shall exceed two hundred:

Five boats for every ship of eight hundred tons and upwards, if the number of statute adults shall exceed three hundred:

Six boats for every ship of twelve hundred tons and upwards, if the number of statute adults shall exceed five hundred and fifty:

One of such boats shall in all cases be a long boat, and one shall be a properly fitted life boat, which shall be kept properly suspended at the quarter or stern of the ship; and each of such boats shall be of a suitable size, to be approved by the emigration officer at the port of clearance, and shall be seaworthy, and properly supplied with all requisites, and kept clear at all times for immediate use at sea: There shall likewise be on board each "passenger ship" two properly fitted life buoys, kept ready at all times for immediate use, and some adequate means, to be approved by the emigration officer at the port of clearance, of making signals by night; also a fire engine, in proper working order, or other apparatus for extinguishing fire to be approved by such officer; provided that "passenger ships" which shall comply with the requirements of this Act as regards boats shall be exempted from the requirements respecting boats contained in the "Steam Navigation Act, 1851."

One boat to be a life-boat.

Life buoys, means for making night signals, and fire engines to be provided.

XXV. Every "passenger ship" shall be manned with an efficient crew for her intended voyage, to the satisfaction of the officer from whom a clearance of such ship may be demanded.

Passenger ship to be properly manned.

XXVI. No "passenger ship" shall clear out or proceed to sea if there shall be on board as cargo any horses, cattle, gunpowder, vitriol, lucifer matches, guano, green hides, or any other article, whether as cargo or ballast, which by reason of its nature or quantity shall be deemed by the emigration officer at the port of clearance likely to endanger the health or lives of the passengers, or the safety of the ship: No part of the cargo, or of the provisions, water, or stores, whether for the use of the passengers or of the crew, shall be carried on the upper deck, or on the "passenger decks," unless in the opinion of such emigration officer it shall be so placed as not to impede light or ventilation, nor interfere with the comfort of the passengers; nor

Certain articles prohibited as cargo and ballast.

Cargo and stores not be carried on deck, except in certain cases and under certain conditions.

Arrangements for the ship.

unless the same be stowed and secured to the satisfaction of such emigration officer; and the space occupied thereby on the passenger decks, or rendered, in the opinion of such emigration officer, unavailable for the accommodation of the passengers, shall be deducted in calculating the space by which, under the provision of this Act, the number of passengers is regulated.

Computation of voyages.

XXVII. For the purposes of this Act, the length of the voyage for a "passenger ship," proceeding from the United Kingdom to the undermentioned places respectively, shall be determined by the following scale; (that is to say,)

	If the ship be propelled by sails alone.	If the ship be propelled wholly by steam engines of not less power than after the rate of 20 horses to every 100 registered tons, or by such steam engines in aid of sails.
	Days.	Days.
To North America (except the west coast thereof):—		
For ships clearing out between the sixteenth day of January and the fourteenth day of October, both days inclusive	70	40
For ships clearing out between the fourteenth day of October and the sixteenth day of January, both days inclusive	80	45
To the West Indies	70	40
To any part of the east coast of the continent of Central or South America northward of the twenty-fifth degree of south latitude, except British Guiana	84	50
To the west coast of Africa	84	50
To the Cape of Good Hope or the Falkland Islands, or to any part of the east coast of South America southward of the twenty-fifth degree of south latitude . . .	105	65

Arrangements for the ship.

	If the ship be propelled by sails alone.	If the ship be propelled wholly by steam engines of not less power than after the rate of 20 horses to every 100 registered tons, or by such steam engines in aid of sails.
	Days.	Days.
To the Mauritius, and to the western coast of America south of the equator . . .	126	75
To Ceylon	140	85
To Western Australia	120	85
To any other of the Australian colonies . .	140	90
To New Zealand and to the western coast of America between the equator and the fortieth degree of north latitude . . .	150	90
To the western coast of America north of the fortieth degree of north latitude, and the islands adjacent thereto	182	96

For the like purposes, the said colonial land and emigration commissioners, acting by and under the authority of one of her Majesty's principal secretaries of state, from time to time, by any notice in writing issued under the hands of any two of such commissioners, and published in the *London Gazette*, may nevertheless declare what shall be deemed to be the length of voyage from the United Kingdom to any of the said herein-before mentioned places, or to any other port or place whatsoever, and may fix such different lengths of voyage as they may think reasonable for such different descriptions of vessels as aforesaid.

Before clearing out the provisions and water to be surveyed.

XXVIII. Before any "passenger ship" shall be cleared out the emigration officer at the port of clearance shall survey or cause to be surveyed by some competent person the provisions and water by this Act required to be placed on board for the consumption of the passengers, and shall satisfy himself that the same are of a good and wholesome quality, and in a sweet and good condition, and are in quantities sufficient to secure throughout the voyage the issues herein-after prescribed: He shall also satisfy

Arrangements for the ship.

Provisions for the crew not to be inferior to those for the passengers.

himself that over and above the same there board, the victualling of the crew of the ship and all other persons, if any, on board, an ample supply of pure water, and of wholesome provisions and stores; and that such of the last-mentioned provisions or stores as consist of articles of a like description to those hereby required for the consumption of the passengers are not inferior in quality to the same: All such water, provisions, and stores shall be provided and properly stowed away in accordance with the requirements of the twenty-sixth section of this Act, by and at the expense of the owner, charterer, or master of the ship; and if a clearance be obtained for any "passenger ship" which shall not be then stored with the requisite quantities of such water, provisions, and stores as are required by this Act, the owner, charterer, or master of such ship shall be liable, on such conviction as herein-after is mentioned, to the payment of a penalty not exceeding one hundred pounds.

Penalty on owners, &c. for neglect.

Power to emigration officer to reject and mark bad provisions, and direct the same to be landed.

XXIX. If such emigration officer shall consider that any of the provisions or stores are not of a good and wholesome quality, or are not in a sweet or good condition, it shall be lawful for him to reject and mark the same, or the packages in which they are contained, and to direct the same to be landed; and if such rejected provisions or stores shall not thereupon be forthwith landed, or if, after being landed, the same or any part thereof shall be reshipped in such ship, the owner, charterer, or master thereof, or if reshipped in any other "passenger ship," the person causing the same to be reshipped, shall be liable, on conviction as hereinafter mentioned, to a penalty not exceeding one hundred pounds.

Penalty.

Water tanks or casks to be approved by emigration officer.

XXX. In every "passenger ship" the water to be laden on board, as herein-before required, shall be carried in tanks or in casks to be approved by the emigration officer at the port of clearance; and when casks are used they shall be sweet and tight, of sufficient strength, and properly charred inside, and shall not be made of fir or soft wood staves, nor be capable severally of containing more than three hundred gallons each.

Proviso for touching at intermediate ports to fill up water.

XXXI. If any "passenger ship" shall be intended to call at any intermediate port or place during the voyage, for the purpose of taking in water, and if an engagement to that effect shall be inserted in the bond mentioned in the fifty-ninth section of this Act, then it shall be sufficient to place on board at the port of clearance such supply of water as may be requisite, according to the rate herein-after mentioned, for the voyage of the said ship to such intermediate port or place, subject to the following conditions; (that is to say,)

First, that the emigration officer signify his approval in writing of the arrangement, to be carried amongst the papers of the ship, and exhibited to the chief officer of customs, or to her Majesty's consul, as the

case may be, at such intermediate port or place, and to be delivered to the chief officer of customs, or to her Majesty's consul, as the case may be, on the arrival of the said ship at the final port or place of discharge: *Arrangements for the ship.*

Secondly, that if the length of either portion of the voyage, whether to such intermediate port or place, or from such intermediate port or place to the final port or place of discharge, be not prescribed in or under the provisions of this Act, the emigration officer at the port of clearance shall in every such case declare the same:

Thirdly, that the ship shall have on board at the time a clearance is demanded tanks or water casks, of the description herein-before mentioned, sufficient for stowing the quantity of water required for the longest of such portions of the voyage as aforesaid.

XXXII. In addition to and irrespective of any provisions of their own which any passengers may have on board, the master of every "passenger ship" shall make to each statute adult during the voyage, including the time of detention, if any, at any port or place before the termination of such voyage, an allowance of pure water and sweet and wholesome provisions, according to the following dietary scale: Dietary scale. for the voyage.

DIETARY SCALE.

Weekly	3 quarts of water daily. 2½ lbs. of bread or biscuit, not inferior in quality to navy biscuit. 1 lb. wheaten flour. 5 lbs. oatmeal. 2 lbs. rice. ½ lb. sugar. 2 oz. of tea, or 4 oz. of cocoa or of roasted coffee. 2 oz. salt.	Per statute adult.

The following substitutions for articles in the above dietary scale may be made, at the option of the master of any "passenger ship," provided that the substituted articles be set forth in the contract tickets of the passengers; that is to say, 5 lbs. of good potatoes, or ½ lb. of beef or of pork, exclusive of bone, or of preserved meat, or ¾ lb. of dried salt fish, or 1 lb. of bread or biscuit not inferior in quality to navy biscuit, or 1 lb. of best wheaten flour, or 1 lb. of split peas, for 1¼ lb. of oatmeal, or for 1 lb. of rice; and ¼ lb. of preserved potatoes may be substituted for 1 lb. of potatoes; but in vessels clearing out from *Scotch* or *Irish* ports the weekly allowance of oatmeal shall not be less than at the rate of 3½ lbs. for each statute adult. As to articles which may be substituted for oatmeal, rice and potatoes.

XXXIII. In every "passenger ship" the issues of provisions shall be made daily before two o'clock in the afternoon, as near as may be in the Provision to be issued daily, and

Arrangements for the ship.

proportion of one seventh of the weekly allowance on each day; the first of such issues shall be made before two o'clock in the afternoon of the day of embarkation, to such passengers as shall be then on board; and all articles which require to be cooked shall be issued in a cooked state.

articles which require cooking to be cooked.

Emigration commissioners may authorize an alternative dietary scale.

XXXIV. The said colonial land and emigration commissioners for the time being, acting under the authority of one of her Majesty's principal secretaries of state, may from time to time, by any notice for that purpose, issued under the hands of any two of such commissioners, and published in the *London Gazette*, authorize the issue of provisions in any "passenger ship" according to such other dietary scale (besides the one herein-before prescribed) as shall in their opinion contain in the whole an equivalent amount of wholesome nutriment; and after the publication of such notice it shall be lawful for the master of any "passenger ship" to issue provisions to his passengers either according to the scale by this Act prescribed, or according to the scale authorized by the said commissioners, whichever may have been set forth in the contract tickets of the passengers: Provided always, that the said commissioners acting under such authority and by such notice as aforesaid may revoke or alter any such dietary scale authorized by them, as occasion may require.

Commissioners' dietary scale may be revoked, &c.

As to appointment of passengers stewards.

XXXV. Every "passenger ship" carrying as many as one hundred statute adults shall have on board a seafaring person, who shall be rated in the ship's articles as passengers steward, and who shall be approved by the emigration officer at the port of clearance, and who shall be employed in messing and serving out the provisions to the passengers, and in assisting to maintain cleanliness, order, and good discipline among the passengers, and who shall not assist in any way in navigating or working the ship.

As to appointment of passengers cook and providing cooking apparatus.

XXXVI. Every "passenger ship" carrying as many as one hundred "statute adults" shall also have on board a seafaring man, or if carrying more than four hundred "statute adults," two seafaring men, to be rated and approved as in the case of passengers stewards, who shall be employed in cooking the food of the passengers: A convenient place for cooking shall also be set apart on deck; and a sufficient cooking apparatus, properly covered in and arranged, shall be provided, to the satisfaction of the said emigration officer, together with a proper supply of fuel adequate, in his opinion, for the intended voyage.

In what cases interpreters to be carried

XXXVII. In every foreign "passenger ship" in which as many as one half of the passengers shall be *British* subjects, unless the master and officers or not less than three of them shall understand and speak intelligibly the *English* language, there shall be carried, where the number of passengers does not exceed two hundred and fifty, one person, and where it exceeds two hundred and fifty, two persons, who understand and speak intelligibly the

language spoken by the master and crew and also the *English* language, and such persons shall act as interpreters, and be employed exclusively in attendance on the passengers, and not in the working of the ship; and the master of any such foreign ship clearing out or proceeding to sea without having such interpreter or interpreters on board as aforesaid shall be liable, on conviction, as herein-after mentioned, to a penalty not exceeding fifty pounds nor less than five pounds.

Arrangements for the ship.

XXXVIII. EVERY "passenger ship" shall carry a duly qualified medical practitioner in the following cases, who shall be rated on the ship's articles:

In what cases a medical man must be carried.

First, when the duration of the intended voyage, as herein-before computed, exceeds eighty days in the case of ships propelled by sails, and forty-five days in the case of ships propelled by steam engines, and the number of persons on board (including cabin passengers, officers, and crew) exceeds fifty:

Second, when the intended voyage is to *North America* and the number of passengers exceeds one hundred "statute adults," and the space allotted to such passengers on the "passenger decks" is less than fourteen clear superficial feet for each "statute adult:"

Third, when, whatever may be the destination of the ship, or the space allotted to the passengers, the number of persons on board (including cabin passengers, officers, and crew,) exceeds five hundred.

XXXIX. No medical practitioner shall be considered to be duly qualified for the purposes of this Act unless authorized by law to practise in the United Kingdom, or, in the case of a foreign ship, in the country to which such ship may belong, as a physician, surgeon, or apothecary, nor unless his name shall have been notified to the emigration officer at the port of clearance, and shall not be objected to by him, nor unless he shall be provided with proper surgical instruments to the satisfaction of such officer.

Qualification of medical man.

XL. THE owner or charterer of every "passenger ship" shall provide for the use of the passengers a medicine chest containing a supply of medicines, instruments, and other things proper and necessary for diseases and accidents incident to sea voyages, and for the medical treatment of the passengers during the voyage, including an adequate supply of disinfecting fluid or agent, together with printed or written directions for the use of the same respectively; and such medicines and other things shall be good in quality, and, in the judgment of the emigration officer at the port of clearance, sufficient in quantity, for the probable exigencies of the intended voyage, and shall be placed under the charge of the surgeon, when there is one on board, to be used at his discretion.

As to supply of medicines, &c.

Arrangements for the ship.

As to medical inspection of passengers and medicins.

XLI. No "passenger ship," except as herein-after provided, shall clear out or proceed to sea until some medical practitioner, to be appointed by the emigration officer at the port of clearance, shall have inspected the medicine chest of the said ship, and also all the passengers and crew about to proceed in her, and shall certify to the said emigration officer that the said ship contains a sufficient supply of medicines, disinfecting fluid or agent, instruments, and other things requisite for the medical treatment of the passengers during the intended voyage, and that none of the passengers or crew appear likely, by reason of being affected by any infectious or other disease, to endanger the health of the other persons about to proceed in such vessel: Such medical inspection of the passengers shall take place either on board the vessel, or, at the discretion of the said emigration officer, at such convenient place on shore before embarkation as he may appoint; and the master, owner, or charterer of the ship shall pay to such emigration officer a sum at the rate of twenty shillings for every hundred statute adults so examined: Provided also, that in case the emigration officer on any particular occasion shall be unable to obtain the attendance of such medical practitioner, it shall be lawful for the master of any such ship to clear out and proceed to sea, on receiving from the said emigration officer written permission for the purpose.

Proviso where no medical practitioner can be obtained.

Diseased passengers may be relanded.

XLII. If any such medical practitioner shall notify to the emigration officer at the original port of clearance, or at any other port or place in the United Kingdom into which the vessel may subsequently put, or if the said emigration officer shall be otherwise satisfied, that any person about to proceed in any such "passenger ship" is unfit by reason of sickness, or is likely, by reason of being affected by any infectious or other disease, to endanger the health of the other persons on board, it shall be lawful for such officer to reland or cause to be relanded any such person, and such members of his family, if any, as may be dependent on him, or as may be unwilling to be separated from him, together with their clothes and effects; and no "passenger ship" shall clear out or proceed to sea so long as any such diseased person shall be on board.

Passengers rights.

As to return of passage money to passengers relanded.

XLIII. Any passenger so relanded, or any emigration officer on his behalf, shall be entitled to recover, by summary process, in manner herein-after provided, the whole of the monies which may have been paid by or on account of such passenger for his passage, from the party to whom the same may have been paid, or from the owner, charterer, or master of such ship, or any of them, at the option of such passenger or emigration officer.

Return of passage money and compensation to

XLIV. If any intending passenger, either by himself or by any other person, shall have contracted for a passage for himself, or for him and his family, in any ship proceeding on any voyage to which this Act extends, and shall be at

the place of embarkation at the time appointed for that purpose in and by such contract, and shall apply for such passage, and shall, on demand, pay or tender such part of the passage money not already paid as shall be payable under such contract previously to embarkation, and if, owing to the previous departure of the ship in which such passage shall have been engaged, or to the want of room therein, or to the neglect, refusal, or other default of the owner, charterer, or master thereof, or of the party with whom or on whose account such passage shall have been contracted for, such passenger shall not obtain a passage in such ship, or shall not, together with all the immediate members of his family who may be included in such contract, obtain a passage to the same port in some other equally eligible ship, to sail within ten days from the expiration of the day named in such contract, and in the meantime be paid subsistence money, at the rate herein-after mentioned, such passenger, or any emigration officer on his behalf, shall be entitled to recover, in manner hereinafter provided, either from the party to whom or on whose account the same may have been paid, or (in case such contract shall have been made with the owner, charterer, or master of such ship, or with any person acting on behalf or by the authority of any of them respectively,) from such owner, charterer, or master of such ship, or any of them, at the option of such passenger or emigration officer, all monies which shall have been paid by or on account of such passengers for such passage, and also such further sum, not exceeding ten pounds in respect of each such passage, as shall, in the opinion of the justices of the peace who shall adjudicate on the complaint, be a reasonable compensation for the loss or inconvenience occasioned to each such passsenger by the loss of such passage.

Passengers rights.

passengers where passages not provided for them according to contract.

XLV. If any ship, whether a "passenger ship" or otherwise, shall not actually put to sea, and proceed on her intended voyage on the day appointed for sailing in and by any contract made by the owner, charterer, or master of such ship, or by his or their agent, with any passenger who shall on that day be on board the same, or ready to go on board, the owner, charterer, or master of such ship, or his or their agent, or any of them, at the option of such passenger or emigration officer, shall pay to every such passenger (or if such passenger shall be lodged and maintained in any establishment under the superintendence of the said colonial land and emigration commissioners, then to the emigration officer at the port of embarkation), subsistence money after the rate of one shilling for each statute adult in respect of each day of delay, until the final departure of such ship on such voyage, and the same may be recovered in manner hereinafter mentioned; provided that if any such ship be unavoidably detained, either by wind or weather, and the passengers be maintained on board in the same manner

As to subsistence in case of detention.

Passengers rights.

as if the voyage had commenced, no such subsistence money shall be payable.

As to ships putting back to replenish provisions, &c.

XLVI. If any "passenger ship" shall, after clearance, be detained in port for more than seven days, or shall put into or touch at any port or place in the United Kingdom, she shall not put to sea again until there shall have been laden on board, at the expense of the owner, charterer, or master of such ship, such further supply of pure water, wholesome provisions of the requisite kinds and qualities, and medical stores, as may be necessary to make up the full quantities of those articles herein-before required for the use of the passengers during the whole of the intended voyage, nor until any damage she may have sustained shall have been effectually repaired, nor until the master of the said ship shall have obtained from the emigration officer or his assistant, or, where there is no such officer, or in his absence, from the officer of customs at such port or place, a certificate to the same effect as the certificate herein-before required to enable the ship to be cleared out; and in case of any default herein the said master shall be liable, on conviction, as herein-after mentioned, to a penalty not exceeding one hundred pounds nor less than fifty pounds sterling: And, if the master of any "passenger ship" so putting into or touching at any port or place as aforesaid shall not within twenty-four hours there-after report in writing, his arrival, and the cause of his putting back, and the condition of his ship, and of her stores and provisions, to the emigration officer, or, as the case may be, to the officer of customs at the port, and shall not produce to such officer the official or "master's list" of passengers, such master shall for each offence be liable to a penalty not exceeding twenty pounds nor less than two pounds sterling.

Penalty on master for default.

Ships putting back to be reported to emigration officer.

Penalty on master for neglect.

In case of disaster at sea, &c, passengers to be provided with a passage by some other vessel, and maintained in the meantime

XLVII. If any "passenger ship" shall, from disaster at sea, or any other cause whatsoever, put into any port or place within the United Kingdom, and shall not be made sound and seaworthy, and within six weeks again proceed with her passengers on her intended voyage, the owner, charterer, or master thereof shall provide the passengers with a passage in some other eligible ship to the port or place at which they respectively may have originally contracted to land, and shall in the meantime, if the passengers be not lodged and maintained on board in the same manner as if the ship were at sea, pay to such passengers (or if such passengers shall be lodged and maintained in any establishment under the superintendence of the said colonial land and emigration commissioners, then to the emigration officer at such port or place,) subsistence money after the rate of one shilling sterling for each statute adult in respect of each day of delay until such passengers are duly forwarded to their destination, and if default shall be made in any of the requirements of this section such passengers respectively, or

In default passengers may recover

any emigration officer on their behalf, shall be entitled to recover, by summary process, as herein-after mentioned, all monies which shall have been paid by or on account of such passengers or any of them for such passage, from the party to whom or on whose account the same may have been paid, or from the owner, charterer, or master of such ship, or any of them, at the option of such passenger or emigration officer: Provided that the said emigration officer may, if he shall think it necessary, direct that the passengers shall be removed from such "passenger ship" at the expense of the master thereof; and if after such direction any passenger shall refuse to leave such ship, he shall be liable, on conviction as herein-after mentioned, to a penalty not exceeding forty shillings, or to imprisonment not exceeding one calendar month, as the justices of the peace may direct.

Passengers rights.

compensation by summary process.

Power to remove passengers from ship;

penalty on passengers refusing.

XLVIII. If the passengers of any "passenger ship" shall be taken off from any such "passenger ship" at sea, it shall be lawful, if the port or place to which they shall be conveyed shall be in the United Kingdom, for one of her Majesty's principal secretaries of state, or if in any of her Majesty's colonial possessions, for the governor of such colony, or for any person authorized by him for the purpose, or if in any foreign country, for her Majesty's consul, or vice consul, at such port or place therein, to defray all or any part of the expenses incurred by such conveyance.

Secretary of state, governor, or consul may pay expenses of taking off passengers at sea.

XLIX. If any passengers of any "passenger ship" shall, without any neglect or default of their own, find themselves within any colonial or foreign port or place other than that at which they may have contracted to land, and the master of such ship shall decline or omit within six weeks thereafter to forward or carry them on to their original destination, it shall be lawful for the governor of such colony, or for any person authorized by him for the purpose, or for her Majesty's consul or vice consul at such foreign port or place, as the case may be, to forward such passengers to their intended destination.

Governors or consuls may send on shipwrecked passengers, if the master of the ship fail to do

L. All expenses incurred under the last two preceding sections or either of them, by or by the authority of such secretary of state, governor, consul, or vice consul as aforesaid, including the cost of maintaining the passengers until forwarded to their destination, and of all necessary bedding, provisions, and stores, shall become a debt to her Majesty and her successors from the owner, charterer, and master of such ship, and shall be recoverable from them, or from any one or more of them, at the suit and for the use of her Majesty, in like manner as in the case of other crown debts; and a certificate purporting to be under the hand of any such secretary of state, governor, or consul, or vice consul, (as the case may be,) stating the total amount of such expenses, shall in any suit or other proceeding for the recovery of such debt be deemed

Expenses incurred under the two preceding sections to be a crown debt.

Passengers rights.

sufficient evidence of the amount of such expenses, and that the same were duly incurred, without any proof of the handwriting or of the official character of the secretary of state, governor, consul, or vice consul who may have signed such certificate: Provided nevertheless, that in no case shall any larger sum be recovered on account of such expenses than a sum equal to the amount originally paid for the passage of the passengers who may be so forwarded or conveyed as aforesaid; which original amount of passage money shall be proved by the defendant, if he will have the advantage of this limitation of the debt; but if any such passengers are forwarded or conveyed to their intended destination under the provisions of the last preceding section, they shall not be entitled to the return of their passage money, or to any compensation for loss of passage under the provisions of this Act.

Passengers forwarded by governor or consul not entitled to a return of passage money.

Insurance of passage money not to be void on account of the nature of the risk.

LI. No policy of assurance effected in respect of any passages, or of any passage or compensation monies, by any person by this Act made liable, in the events aforesaid, to provide such passages or to pay such monies, shall be deemed to be invalid by reason of the nature of the risk or interest sought to be covered by such policy of assurance.

Miscellaneous.

Wrongfully landing passengers

LII. No passenger in any ship, whether a "passenger ship" or otherwise, shall be landed, without his previous consent, at any port or place other than the port or place at which he may have contracted to land.

Passengers to be maintained for 48 hours after arrival.

LIII. Every passenger in a "passenger ship" shall be entitled, for at least forty-eight hours next after his arrival at the end of his voyage, to sleep in the ship, and to be provided for and maintained on board thereof, in the same manner as during the voyage, unless within that period the ship shall quit such port or place in the further prosecution of her voyage.

Passengers right of action preserved.

LIV. Nothing herein contained shall take away or abridge any right of action which may accrue to any passenger in any ship, or to any other person, in respect of the breach or non-performance of any contract made or entered into between or on behalf of any such passenger or other person, and the master, charterer, or owner of any such ship, or his or their agent, or any passage broker.

Her Majesty may, by orders in council, prescribe rules, for preserving order, &c. in vessels bound to the colonies.

LV. It shall be lawful for her Majesty and her successors, by any order in council to be by her or them made, with the advice of the privy council, to prescribe such rules and regulations as to her Majesty or her successors may seem fit, for preserving order, for promoting health, and for securing cleanliness and ventilation, on board of "passenger ships" proceeding from the United Kingdom to any port or place in her Majesty's possessions abroad, and the said rules and regulations from time to time in like manner to alter, amend, and revoke, as occasion may require; and any copy of such order in council contained in the "*London Gazette*," or purporting to be printed by the

Gazette and copies printed by Queen's

Miscellaneous.

Queen's printer, shall throughout her Majesty's dominions be received in all legal proceedings as good and sufficient evidence of the making and contents of any such order in council.

printer, to be evidence of orders, &c.

LVI. In every such "passenger ship" the medical practitioner on board, aided by the master thereof, or, in the absence of such medical practitioner, the master of such ship, is hereby empowered to exact obedience to all such rules and regulations as aforesaid; and any person on board who shall neglect or refuse to obey any such rule or regulation, or who shall obstruct the medical practitioner or master of such ship in the execution of any duty imposed upon him by any such rule or regulation, or who shall be guilty of riotous or insubordinate conduct, shall be liable for each offence to a penalty not exceeding two pounds sterling, and, in addition thereto, to be confined in the common gaol for any period not exceeding one month, at the discretion of the justices who shall adjudicate on the complaint.

Surgeon or master to exact obedience to rules and regulations. Penalty for refusing to observe rules and regulations.

LVII. The said colonial land and emigration commissioners shall from time to time prepare such abstracts as they may think proper of the whole or any part of this Act, and of any such order in council as aforesaid; and four copies of such abstracts, together with a copy of this Act, shall, on demand, be supplied by the principal officer of customs at the port of clearance to the master of every "passenger ship" proceeding from the United Kingdom to any port or place in her Majesty's possessions abroad; and such master shall, on request made to him, produce a copy of the Act to any passenger on board, for his perusal, and, further, shall post, previous to the embarkation of the passengers, and shall keep posted so long as any passenger shall be entitled to remain in the ship, in at least two conspicuous places between the decks on which passengers may be carried, copies of such abstracts; and such master shall be liable to a penalty not exceeding forty shillings sterling for every day during any part of which by his act or default such abstracts shall fail to be so posted; and any person displacing or defacing such abstracts so posted shall be liable to a penalty not exceeding forty shillings sterling.

Emigration commissioners to prepare an abstract of Act and orders in council.

Such abstract to be posted up in each ship.

Penalty on master for neglect;

and on person defacing abstract.

LVIII. If in any "passenger ship" any person shall during the voyage, directly or indirectly, sell or cause to be sold any spirits or strong waters to any passenger, he shall be liable for every such offence to a penalty not exceeding twenty pounds nor less than five pounds sterling.

Sale of spirits prohibited on board passenger ships.

Penalty.

LIX. Before any "passenger ship" shall clear out or proceed to sea, the owner or charterer, or, in the event of the absence of such owner or charterer, one good and sufficient person on his behalf, to be approved by the chief officer of customs at the port of clearance, shall, with the master of the said ship, enter into a joint and several bond, in the sum of one thousand pounds, to her Majesty, her heirs and successors, according to the form contained in

Bond to be given by masters of British and foreign passenger ships.

Miscellaneous.

schedule (B) hereto annexed, the condition of which bond shall be, that the said ship is in all respects seaworthy, and that, notwithstanding any penalty by this Act imposed, and whether the same may have been sued for and recovered or not, all and every the requirements of this Act (except such as relate exclusively to passage brokers), and of the said colonial land and emigration commissioners acting in the manner prescribed by this Act, and of any order which may at the date of such bond have been passed by her Majesty in council in virtue of this Act, shall in all respects be well and truly fulfilled and performed, and in the case of any foreign "passenger ship" which shall be bound to any of her Majesty's possessions abroad, that the master thereof shall submit himself in like manner as a *British* subject, being the master of a *British* "passenger ship," to the jurisdiction of such courts and magistrates in her Majesty's possessions abroad as are by this Act empowered to adjudicate on offences committed against this Act, and moreover that the master, whether of a *British* or foreign "passenger ship," shall well and truly pay all penalties, fines, and forfeitures which he may be adjudged to pay, either in the United Kingdom or by any such tribunal abroad, for or in respect of the breach or non-performance of any of the requirements of this Act, or of the said commissioners, or of any such order in council: Such bond shall not be liable to stamp duty, and shall be executed in duplicate.

Counterpart of bond to be certified and sent to the colony to which foreign ship bound, and to be received in evidence without further proof of execution.

LX. It shall be the duty of the chief officer of customs at the port of clearance of any foreign "passenger ship" bound to any of her Majesty's possessions abroad, to certify on one part of such bond that it has been duly executed by the said master of such ship and the other obligor, and to forward the same by post to the colonial secretary of the colony to which such foreign "passenger ship" may be bound; and such certificate shall, in any colonial court of judicature in which the bond may be put in suit, be deemed conclusive evidence of the due execution of the bond by the said master and the other obligor, and it shall not be necessary to prove the handwriting of the officer of customs who may have signed such certificate, nor that he was at the time of signing it chief officer of customs at the port of clearance; provided that no such bond shall be put in suit in any of her Majesty's possessions abroad after the expiration of three calendar months next after the arrival therein of the said ship, nor in the United Kingdom after the expiration of twelve calendar months next after the return of the said ship or of the said master to the United Kingdom.

Passage broker.

No person to act as a passage broker

LXI. No person whatever, except the colonial land and emigration commissioners, or persons contracting with them or acting under their authority, shall directly or indirectly act as a passage broker in respect of passages from the United Kingdom to any place out of *Europe*, and not being within the

Mediterranean Sea, or shall sell or let, or agree to sell or let, or be in any wise concerned in the sale or letting of passages in any ship, whether a "passenger ship" or otherwise, proceeding from the United Kingdom to any such place as aforesaid, unless such person, with two good and sufficient sureties, to be approved by the emigration officer at the port nearest to the place of business of such person, shall have previously entered into a joint and several bond, in the sum of five hundred pounds, to her Majesty, her heirs and successors, according to the form contained in schedule (C) hereto annexed, which bond shall be renewed on each occasion of obtaining such licence as herein-after mentioned, and shall be in duplicate, without stamps, and one part thereof shall be deposited at the office in *London* of the said colonial land and emigration commissioners, and the other part thereof with the chief officer of customs at the port nearest to the place of business of such person; nor unless such person shall have obtained a licence, as hereinafter mentioned, to let or sell passages, nor unless such licence shall then be in force; and if any person shall offend against this enactment, every person so offending shall for each offence be liable to a penalty not exceeding fifty pounds nor less than twenty pounds, to be sued for and recovered as hereinafter mentioned: Provided always, that such bond shall not be required of any person who shall be one of the sworn brokers of the city of *London*.

Passage broker.

without a licence.

LXII. Any person wishing to obtain a licence to act as a passage broker in respect of passages from the United Kingdom to any place out of *Europe*, and not being in the *Mediterranean Sea*, shall make application for the same to the justices at the petty sessions held for the district or place in which such person shall have his place of business; and such justices are hereby authorized (if they shall think fit) to grant a licence for that purpose, according to the form in the schedule (D) hereunto annexed, which licence shall continue in force until the thirty-first day of December in the year in which such licence shall be granted, and for thirty-one days afterwards, unless sooner forfeited, as herein mentioned; and upon granting such licence the justices shall cause a notice thereof according to the form in schedule (E) hereto annexed to be transmitted forthwith by the post to the said colonial land and emigration commissioners at their office in *London*: Provided always, that no such licence shall be granted unless the party applying for the same shall show to the satisfaction of the justices that he has given such bond to her Majesty, her heirs and successors, as herein-before required, and has deposited one part thereof at the office in *London* of the said commissioners, or is a sworn broker of the city of *London*, and has in either case given notice to the said commissioners fourteen clear days at least before such application of his intention to apply for the same, which notice shall be transmitted by the post to the office

How passage brokers licences may be obtained.

Justices to give notice to emigration commissioners of licence granted.

Notice to be given to emigration commissioners of intended application for licences.

Passage broker.

Power to justices to order licences to be forfeited, who shall give notice of the same to emigrationcommissioners.

in *London* of the said commissioners, and shall be according to the form contained in the schedule (F) hereto annexed: Provided also, that any justices of the peace who shall adjudicate on any offence against this Act, or on any breach or non-performance of any of the requirements thereof, are hereby authorized, if they shall think fit, and the offender is a passage broker, to order his licence to be forfeited, and the same shall thereupon be forfeited accordingly; and the said justices making such order shall forthwith cause notice of such forfeiture, in the form contained in the schedule (G.) hereunto annexed, to be transmitted by the post to the said commissioners at their office in *London*: in *Scotland*, where any person wishing to obtain such licence shall make application for the same to the sheriff or steward or sheriff substitute or steward substitute in place of to such justices of the peace as aforesaid, the forms given in the said schedule shall still be adhered to, with such alterations as may be necessary.

As to application for licences in Scotland.

Existing licences to continue in force until 1st February, 1853.

LXIII. Every passenger broker's license in force at the commencement of this Act shall, unless adjudged to be forfeited, continue in force until the first day of *February* one thousand eight hundred and fifty-three, but no longer; and all Acts done under such licence while in force shall be as valid as if done under any licence granted under this Act.

Contract tickets for passages.

LXIV. If any owner, charterer, or master of a ship, or any passage broker or agent, or other person, shall receive money from any person for or in respect of a passage or intended passage from the United Kingdom to any port or place out of *Europe*, and not being within the *Mediterranean Sea*, the person so receiving such money shall give to the party from whom the same shall have been received, a contract ticket in plain and legible characters, and made out upon a printed form, which shall be in all respects according to the form in the schedule (H.) hereto annexed, or according to such other form as may from time to time be prescribed by the said colonial land and emigration commissioners, in any notice issued under their hands or the hands of any two of them, and published in the "*London Gazette*," and shall also comply with all the directions contained on the face of such form, and in default thereof shall be liable to a penalty, not exceeding ten pounds nor less than five pounds, in respect of each passenger on account of whose passage such money shall have been received, to be sued for and recovered as herein-after is mentioned: Provided always, that such contract ticket shall not be liable to any stamp duty.

Penalty for default.

Penalty for inducing any one to part with contract ticket.

LXV. Any person who shall fraudulently alter or cause to be altered, after it is once issued, or shall induce any person to part with, render useless, or destroy, any such contract ticket, during the continuance of the contract which it is intended to evidence, shall be liable in each case to a penalty not

exceeding five pounds nor less than two pounds, to be recovered as herein-after mentioned.

Passage broker.

Penalties on agents acting without written authority from principals;

and on persons fraudulently inducing others to engage passages.

LXVI. If any licensed passage broker shall, as agent for any person, whether a licensed broker or not, receive money for or on account of the passage of any passenger from the United Kingdom to any port or place out of *Europe*, and not being within the *Mediterranean Sea*, without having a written authority to act as such agent, or shall, on the demand of any emigration officer, refuse or fail to exhibit his licence and such written authority, or if any person whatever, whether licensed or not, shall receive money for or on account of any such passage, or if any person, whether as principal or agent, shall by any fraud, or by false representation as to the size of the ship or otherwise, or by any false pretence whatsoever, induce any person to engage any passage as aforesaid, every such broker or other person shall be liable, upon conviction, as herein-after is mentioned, in respect of every such offence, to a penalty not exceeding twenty pounds nor less than five pounds, to be sued for and recovered in manner herein-after mentioned.

No runner entitled to commission or fee for services to emigrants, unless acting with authority from a broker.

LXVII. No person, unless acting under the written authority and as the agent or runner of a licensed passage broker, duly qualified at the time to act in that capacity (which authority shall be countersigned by an emigration officer), shall be entitled to recover by legal process from any intending emigrant, or from any passage broker or other person, any fee, commission, or reward for or in consideration of any service rendered or performed to or for any passenger or person seeking information or assistance in any way relating to emigration; and every such runner shall exhibit such authority, when required so to do by any justice of the peace, or any constable or police officer, or any owner, charterer, master, or mate of a "passenger ship," or by any such intending emigrant, and if he shall refuse or omit to produce the same, when so required, he shall be liable to a penalty for every such offence not exceeding twenty shillings, to be sued for and recovered in manner herein-after mentioned.

List of runners to be exhibited by brokers, and sent to emigration officers.

LXVIII. Every licensed passage broker shall exhibit and keep constantly exhibited in some conspicuous place in his office or place of business a correct list containing the names and addresses in full of every person for the time being holding such authority to act as agent or runner for him as aforesaid, and shall at least once in every month transmit a true copy of such list duly signed by him to the emigration officer stationed nearest to the place of business of such licensed passage broker; and in case of any default herein such licensed passage broker shall be liable, on conviction, as herein-after mentioned, to a penalty not exceeding five pounds nor less than two pounds for each offence.

Passage broker.

Trustees of docks may pass bye-laws for regulating the landing and embarkation of intending emigrants, and for licensing emigrant porters.

LXIX. It shall be lawful for the trustees or other persons charged with the management of any docks or basins in any port within the United Kingdom from which "passenger ships" are despatched to make, and from time to time to alter, amend, or repeal, such rules and bye-laws as may be necessary for prescribing the docks, basins, or other places at which persons arriving by sea at such ports for the purpose of emigrating, or actually emigrating therefrom, shall be landed and embarked, and the mode of their landing and embarkation, and for licensing porters to carry their luggage and otherwise to attend upon them, and for the storing and safe custody of their luggage, and for admitting persons to and excluding persons from access to such docks or basins, and for attaching a penalty not exceeding five pounds for the breach of any of such rules or byelaws, such penalty to be sued for and recovered as other penalties are by this Act directed to be recovered: And it shall further be lawful for such trustees, by their officers or servants, or by any police officer, to arrest and detain any person charged with the breach of any such rule or byelaw until brought before any justice of the peace, who is hereby authorized to adjudicate on the offence in a summary way: Provided that no such rules or byelaws shall take effect until they shall have been approved by one of her Majesty's principal secretaries of state, and published by his authority in the *London Gazette*, which publication shall for all purposes be deemed conclusive evidence of such rules and byelaws, and of the approval thereof by such secretary of state.

Byelaws to be approved by secretary of state, and published in the London Gazette.

Penalties.

Penalties on masters of ships for offences herein named.

LXX. A penalty not exceeding fifty pounds nor less than five pounds sterling is hereby imposed on the master of any ship or "passenger ship," as the case may be, coming within the provisions of this Act, who shall be convicted in manner herein-after mentioned of any one of the following offences; that is to say,

Inspection of ships.

If in any ship, whether a "passenger ship" or otherwise, fitting or intended for the carriage of passengers, or which shall carry passengers on any voyage to which any of the provisions of this Act may extend, every such facility for inspection shall not be afforded as herein-before required; or if passengers be carried on any other than the "passenger decks," as herein-before required; or if a clearance be demanded for any ship, whether a "passenger ship" or otherwise, before such lists of passengers shall be signed and delivered to the proper officer as herein-before required; or if at any time during the voyage all such additions to the "masters lists" shall not be made, or if such additional or separate lists shall not be duly signed and delivered to the proper officer, as herein-before required, or if any such list or any additions to the same shall not be duly exhibited to or

Carriage of passengers on other than passenger-decks.

Passengers lists.

Additional passengers lists.

deposited with the proper officer at any port or place as herein-before required, or if any of such lists, or the additions thereto respectively, shall be wilfully false; or if any "passenger ship" shall clear out or proceed to sea without having been duly surveyed as herein-before required; or if at the time of clearance or at any time during the voyage the beams on which the "passenger decks" are supported in any such "passenger ship" shall not form part of her permanent structure, and be secured as herein-before required; or if the "passenger decks" shall not be of the thickness and laid or secured in such manner as herein-before required; or if the height between any deck on which passengers may lawfully be carried and the deck immediately above it shall be less than six feet; or if there shall be more than two tiers of berths on any one deck; or if such berths shall not be securely constructed, or shall not be of such dimensions as herein-before required, or if there shall not be such an interval between the deck and the floor of the berths as is herein-before required; or if the passengers be berthed contrary to the requirements of this Act; or if the unmarried male passengers of fourteen years of age and upwards shall not be berthed in such separate compartments as herein-before required; or if any of the berths shall be taken down, contrary to the requirement in that behalf herein-before contained; or if in any "passenger ship" a space shall not be properly divided off and set apart for a hospital, as herein-before required; or if before clearance any passenger ship shall not be fitted with privies, or if the same shall not throughout the voyage be maintained in a serviceable condition, as herein-before required; or if the passengers shall not have free access to or from the between decks, in the manner herein-before required; or if any "passenger ship," at the time of clearance, or at any time during the voyage, shall not have on board such boats and life buoys, and such adequate means for making signals by night, and for extinguishing fire, as herein-before required; or if any "passenger ship" shall proceed to sea without being properly manned, or shall have on board as cargo, or as ballast, any articles by this Act prohibited, or any articles likely by reason of their nature or quality to endanger the health or lives of the passengers, or the safety of the ship, as herein-before mentioned, or if any part of the cargo, or of the provisions, water, or stores, shall be carried on the upper deck or on the "passengers decks," contrary to the provisions of this Act; or if in any "passenger ship," at any time during the voyage, water and provisions of the description, quantity, and quality required by or under this Act, shall not be issued in the

Penalties.

Survey.

Beams.

Decks.

Height between decks.

Berths.

Hospital.

Privies.

Access to the between decks.

Boats, life buoys, night signals, and fire engines.

Manning.

Cargo.

Issue of provisions and water.

Penalties.

quantities and in manner herein-before required; or if bad or unwholesome provisions be issued to any passenger, contrary to the requirements of this Act; or if the water shall not be carried in such tanks or casks as herein-before required; or if, in the cases respectively herein-before mentioned, there shall not be on board of any "passenger ship" at the time of clearance, and at all times during the voyage, such passengers steward and such passengers cook or cooks, as the case may be, and such place for cooking, and cooking apparatus, as herein-before required; and such duly qualified medical practitioner as herein-before required; or if there shall not be on board of any "passenger ship" such medicines, disinfecting fluid or agent, instruments, and medical apparatus, and such printed or written directions for the use of the same respectively, as may at any time be required by or under the provisions of this Act; or if any "passenger ship," except as herein-before provided, shall clear out or proceed to sea before such medical inspection of the medicines and passengers shall have taken place, and such certificate of the medical inspector shall have been granted, as herein-before required; or if any diseased person on board of any "passenger ship," or the members of his family, shall not be relanded as herein-before required; or if any passenger shall, without his previous consent, be landed at any place other than the place at which he may have contracted to land; or if any passenger shall not be allowed to sleep and be maintained on board the ship after arrival for the period and in manner herein-before provided; or if there shall not be kept on board a copy of this Act, or if the same shall not be produced, on demand, as herein-before required.

Water casks.

Cook and cooking apparatus.

Surgeon.

Medicines.

Medical inspection.

Relanding of diseased passengers.

Wrongfully landing passengers.

Maintenance of passengers on arrival.

Keeping Act on board, &c.

Penalty for falsifying documents to obtain free passages, and for personation.

LXXI. And whereas certain forms are from time to time issued by the said colonial land and emigration commissioners, for the use of persons applying to them, or to persons acting under their authority, for passages from the United Kingdom to the *British* colonies wholly or partially at the expense of *British* or colonial funds: And whereas it is expedient to afford additional security against false representations in such forms, and in any certificate of marriage, baptism, or otherwise adduced in support thereof, and against the forging or fraudulently altering of any signature or statement in such forms or certificates, and against personation: Be it therefore enacted, that if any person shall wilfully make any false representation in any such form or certificate as aforesaid, or shall forge or fraudulently alter any signature or statement in any such form or certificate, or shall personate any person named in any such form or certificate, or in any embarkation order issued by or under the authority of the said commissioners, such persons shall be liable,

for and in respect of each and every such offence, on such conviction as hereinafter mentioned, to a penalty not exceeding fifty pounds nor less than two pounds sterling.

Penalties.

LXXII. All penalties and forfeitures imposed by this Act shall be sued for in the United Kingdom by any emigration officer or his assistant, or by any collector or comptroller of her Majesty's customs, or by any other officer of her Majesty's customs authorized in writing by the commissioners of her Majesty's customs to sue for penalties and forfeitures under this Act, and in any of her Majesty's possessions abroad by any government emigration agent, or by any such collector or comptroller of customs, or other officer of customs so authorized as aforesaid, or by any officer authorized to sue for penalties and forfeitures under this Act by writing under the hand and seal of the governor of any such possession, and the commissioners of her Majesty's customs and every such governor are hereby respectively empowered to grant such authority as aforesaid: And all sums of money made recoverable by this Act as return of passage money, subsistence money, or compensation may be sued for and recovered by and for the use of any passenger entitled thereto under this Act, or by any of such officers as aforesaid, for and on behalf and to the use of any such passenger or any number of such passengers respectively, and in any case either by one or several informations or complaints.

By whom penalties are to be recovered.

By whom passage, subsistence, and compensation monies may be recovered.

LXXIII. All penalties and sums of money by this Act made recoverable shall and may be sued for and recovered before any two or more justices of the peace acting in any part of her Majesty's dominions or possessions in which the offence shall have been committed or the cause of complaint shall have arisen, or in which the offender or party complained against shall happen to be, or acting in any county or borough or place adjacent to any navigable river or inlet of the sea on which such offence shall have been committed or cause of complaint have arisen; and upon information or complaint made before any one justice of the peace acting as aforesaid, he shall issue a summons, according to the form in the schedule (J.) hereto annexed, requiring the party offending or complained against to appear at a time and place to be named therein; and every such summons shall be served on the party offending or complained against, or shall be left at his last known place of abode or of business, or on board any ship to which he may belong; and if such party shall not appear accordingly, then (upon proof of the due service of the summons by delivering the summons or a copy thereof to the party, or at his last known place of abode or of business, or on board any ship to which he may belong, to the person in charge of any such ship), any two of such justices so acting as aforesaid may either hear and determine the case in the absence of the party, or either of them may issue his warrant for apprehending

Tribunal for adjudicating on offences and complaints under this Act.

Penalties. and bringing such party before them or any two justices so acting as aforesaid; or the justice before whom the charge shall be made, if he shall have reason to suspect, from information upon oath, that the party is likely to abscond, may issue such warrant in the first instance, without any previous summons; and either upon the appearance of the party offending or complained against, or in his absence as aforesaid, any two of such justices so acting as aforesaid may hear and determine the case, either with or without any written information or complaint; and upon proof of the offence, or of the complainant's claim, (as the case may be,) either by confession of the party offending or complained against, or upon the oath of one or more credible witness or witnesses (and the justices are hereby authorized to summon and swear any witnesses who may be deemed necessary), it shall be lawful for such justices so acting as aforesaid to convict the offender, or adjudicate upon the complaint (such conviction or adjudication to be drawn up according to one of the forms of conviction or adjudication contained in schedule (K.) hereto annexed, or as near thereto as the circumstances of the case will admit,) and upon every such conviction to order the offender to pay such penalty as they may think proper, not exceeding the penalties hereinbefore imposed, and upon every such adjudication to order the party complained against to pay to the party suing for the same the sum of money sued for, or so much thereof as such justices shall think the complainant justly entitled to, together with, in every case, the costs of the proceedings; and if the monies and costs mentioned in such conviction or adjudication be not paid immediately or within the time limited thereby, it shall be lawful for any two of such justices so acting as aforesaid, by warrant (and although the written order of conviction or adjudication, or any minute thereof, may not have been served,) to cause the party offending to be committed to gaol, there to be imprisoned, with or without hard labour, according to the discretion of such justices, for any term not exceeding three calendar months, unless such monies and costs be sooner paid and satisfied: Provided always, that in all proceedings taken under this Act for which no form is herein expressly provided it shall be lawful to use forms similar, as nearly as circumstances will admit, to those contained in the schedule to an Act passed in the session of Parliament holden in the eleventh and twelfth years of the reign of her present Majesty, chapter forty-three.

Police and stipendiary magistrates, and in Scotland sheriffs, &c., to have the same powers as

LXXIV. EVERY police or stipendiary magistrate, and in *Scotland* every sheriff or steward and sheriff substitute or steward substitute of a county or stewartry within his own county or stewartry, shall have such and the like powers, privileges, and functions, and be entitled to exercise such and the like jurisdiction under this Act, as any justice or two justices, or justices at

petty sessions, have or is or are entitled to exercise under the provisions of this Act; and all Acts, matters, and things competent to be done under the provisions of this Act by or before any justice or two justices of the peace, or justices at petty sessions, or otherwise, may be done by and before any police or stipendiary magistrate, and in *Scotland* by and before any sheriff or steward or sheriff substitute or steward substitute within his own county or stewartry.

Penalties.

justices of the peace.

LXXV. No objection shall be taken or allowed to any complaint, information, summons, or warrant under this Act, for any alleged defect therein, either in substance or in form, or for any variance between such complaint or information and the evidence adduced on the hearing thereof; but if any variance shall appear to the justice or justices present and acting at such hearing to be such that the party so summoned and appearing has been thereby deceived or misled, it shall be lawful for such justice or justices, upon such terms as he or they shall think fit, to adjourn the hearing of the case to some future day, and in the meantime to commit the defendant to such safe custody as the said justice or justices may think fit, or to discharge him upon his recognizance, with or without sureties, to appear at such time and place as may be appointed: No conviction, order, adjudication, or other proceeding under or in pursuance of this Act shall be quashed or vacated for want of form.

No objection to be allowed, nor convictions to be quashed for want of form.

LXXVI. All penalties imposed by this Act shall, when recovered, be paid to the party at whose suit the same shall have been recovered, for the use of her Majesty and her successors, and if recovered in the colonies shall be paid over by the party receiving the same into the colonial treasury, and shall form part of the general revenue of the colony, and if recovered in the United Kingdom shall be paid over to the colonial land and emigration commissioners if the party at whose suit the same shall have been recovered be an emigration officer, or his assistant, and to her Majesty's commissioners of customs if the party at whose suit the same shall have been recovered be an officer of customs, to be by such colonial land and emigration commissioners and commissioners of customs respectively duly accounted for; and all such penalties as may be recovered in the United Kingdom shall be appropriated to such purposes and in such manner as the Lord High Treasurer or the commissioners of her Majesty's treasury may from time to time direct and appoint: Provided always, that it shall be lawful for the justices of the peace who shall impose any such penalty at the same time to direct, if they shall think fit, that a part, not exceeding one moiety thereof, be applied to compensate any passenger for any wrong or damage which he may have sustained by the act or default in respect of which such penalty or forfeiture shall have been imposed.

Application of penalties.

Justices may award compensation out of penalties to party aggrieved.

LXXVII. If in any suit, action, prosecution, or other legal proceeding under this Act any question shall arise whether any ship was or was not

Burden of proof to be on persons

Penalties.

claiming exemption from Act.

exempted from the provisions of this Act, or any of them, the burden of proving that such ship was so exempted shall lie on the party claiming the benefit of the exemption, and failing such proof it shall for any such purpose as aforesaid be taken and adjudged that the ship did come within the provisions of this Act; and it shall not be necessary, in any information, complaint, or other process or proceeding, to negative any exemption, proviso, or condition contained in any section of this Act on which such information, complaint, or other process or proceeding shall be framed, neither shall it be necessary for the complainant to prove the negative, but the defendant may prove the affirmative thereof, if he will have advantage of the same.

Proof of negatives.

Proof of a party being an emigration officer, &c.

LXXVIII. If in any proceeding before any justice or justices of the peace under this Act, or upon any action, suit, or other proceeding whatsoever, against any person, for any thing done either contrary to or in pursuance of this Act, a question should arise whether any person is an emigration officer or assistant emigration officer, or an officer of customs, *vivâ voce* evidence may be given of such fact by the officer himself, and shall be deemed legal and sufficient evidence.

Passengers suing not incompetent witnesses.

LXXIX. Any passenger suing under this Act for any sum of money made recoverable by this Act as passage money, subsistence money, or compensation, shall not be deemed an incompetent witness in any proceeding for the recovery thereof, notwithstanding the same, if recovered, shall be applicable to his own use and benefit.

Tender of amends.

LXXX. No plaintiff shall recover in any action against any emigration officer, his assistant, government emigration agent, or officer of customs, or other person, for anything done in pursuance of this Act, if tender of sufficient amends shall have been made before such action brought, or if, after action brought, a sufficient sum of money shall have been paid into court, by or on behalf of the defendant.

Limitation of actions against officers executing the Act.

LXXXI. No action or suit shall be commenced against any emigration officer, his assistant, government emigration agent, officer of customs, or other person, for anything done in pursuance of or under the authority of this Act, until ten clear days notice has been given thereof in writing to the officer, agent, or person as aforesaid, against whom such action or suit is intended to be brought, nor after three calendar months next after the act committed for which such action or suit shall be so brought; and every such action shall be brought, laid, and tried where the cause of action shall have arisen, and not in any other place; and the defendant in such action or suit may plead the general issue, and give this Act and any special matter in evidence, at any trial which shall be had thereupon; and if the matter or thing shall appear to have been done under or by virtue of this Act, or if it shall appear that such

Defendant may plead the general issue, &c.

action or suit was brought before ten clear days' notice thereof given as aforesaid, or if any action or suit shall not be commenced within the time herein-before limited, or shall be brought or laid in any other place than as aforesaid, then the jury shall find a verdict for the defendant therein; and if a verdict shall be found for such defendant, or if the plaintiff in such action or suit shall become non-suited, or suffer a discontinuance of such action, or if upon any demurrer in such action judgment shall be given for the defendant thereon, then and in any of the cases aforesaid such defendant shall and may recover full costs of suit as between solicitor and client, and shall have such remedy for recovering the same as any defendant may have for his costs in any other case by law.

Penalties.

Costs.

LXXXII. WHERE no time is expressly limited within which any complaint or information is to be made or laid for any breach or non-performance of any of the requirements of this Act, the complaint shall be made or the information laid within twelve calendar months from the time when the matter of such complaint or information respectively arose, or in case the master of any ship is the offender or party complained against, within twelve calendar months next after his return to the country in which the matter of complaint or information arose.

Limitation of legal proceedings generally.

LXXXIII. AND whereas it is expedient to provide in certain cases for the carriage of passengers by sea from her Majesty's possessions abroad: Be it therefore enacted as follows: For the purposes of this Act the term "colonial voyage" shall signify any voyage from any port or place within any of such possessions (except the territories under the government of the *East India* Company) to any port or place whatever, of which the duration, to be prescribed as hereinafter mentioned, shall exceed three days.

Colonial voyages.

Colonial voyages defined.

LXXXIV. THIS Act shall apply, so far as the same is applicable, to all ships carrying passengers on any such "colonial voyage," except as to such parts of the Act as relate to the following matters; (that is to say,)

1. To passage brokers and their licences:
2. To passengers contract tickets:
3. To the giving bond to her Majesty:
4. To the keeping on board a copy of this Act:
5. To orders in council prescribing rules for cleanliness, order and ventilation:

This Act to apply to colonial voyages, except as relates to matters herein named

Provided that if the prescribed duration of any "colonial voyage" be less than three weeks, then, in addition to the matters lastly herein-before excepted, the provisions of this Act shall not extend or apply so far as they relate to the following subjects; (namely,)

The construction or thickness of the decks:

If any colonial voyage be less than three weeks, this Act not to apply to subjects herein named.

Colonial voyages.

The berths and berthing:
The height between decks:
Privies:
Hospitals:
Light and ventilation:
Manning:
Passengers stewards:
Passengers cooks and cooking apparatus:
The surgeon, and medicine chest:
The maintenance of passengers for forty-eight hours after arrival:

Provided also, that in the case of such "colonial voyages" whereof the prescribed duration is less than three weeks, the requirements of this Act respecting the issue of provisions shall not, except as to the issue of water, be applicable to any passenger who may have contracted to furnish his own provisions.

Governor of colonies may, by proclamation, declare length of voyage, and substitute other articles of food and medicine.

LXXXV. It shall be lawful for the governor of any of her Majesty's possessions abroad, by any proclamation to be by him from time to time issued for that purpose (which shall take effect from the issuing thereof), to declare what shall be deemed for the purposes of this Act to be the length of the voyage of any ship carrying passengers from such possession to any other place whatsoever, and to substitute for the articles of food and provisions specified in this Act such other articles of food and provisions as he shall deem to be a full equivalent for the same, and also to declare what medicines, medical instruments, and other matters shall be deemed necessary for the medical treatment of the passengers during such "colonial voyage:" Every such proclamation shall be transmitted, by the governor by whom the same may have been issued, to her Majesty, through one of her Majesty's principal secretaries of state, for her Majesty's confirmation or disallowance; and a copy of any such proclamation, purporting to be under the hand of the governor of the colony wherein the same may have been issued, and under the public seal of such colony, shall in any other colony wherein the same shall be so produced be received as good and sufficient evidence of the issuing and of the contents of such proclamation, unless it shall be proved that such copy is not genuine.

Proclamations to be transmitted for confirmation or disallowance. Copies to be evidence in the colony in which they may be produced.

Provision for survey of ships in the colonies, and for appointing surgeons thereto.

LXXXVI. It shall be lawful for the governors of any such possessions respectively to authorize such person or persons as they may think fit to make the like survey and examination of "passenger ships" sailing from such possessions respectively as is herein-before required to be made by two or more competent surveyors in respect of "passenger ships" sailing from the United Kingdom, and also to authorize in such cases, as to such governors may

seem proper, any competent person to act as medical practitioner on board any "passenger ship" proceeding on a "colonial voyage."

Colonial voyages.

LXXXVII. THIS Act shall not apply to any of the territories or places under the government of the *East India* Company: It shall, however, be lawful for the governor general of *India* in council, from time to time by any Act or Acts to be passed for that purpose, to declare that this Act or any part thereof shall apply to the carriage of passengers upon any voyage from any ports or places within such territories, to be specified in such Act or Acts, to any other places whatsoever, to be also specified in such Act or Acts; and also in like manner to authorize the substitution, as respects such voyages, of other articles of food and provisions for those herein-before enumerated; and to declare the rule of computation by which the length of any such voyage shall be estimated; and to determine the persons or officers who in such territories shall be entitled to exercise or perform the powers, functions, or duties herein-before given to or imposed upon the emigration officers and officers of customs in the United Kingdom; and to authorize the employment on board any ship of a medical practitioner duly qualified by law to practise as a physician, surgeon, or apothecary within such territories; and to declare for the purposes of this Act the space necessary for passengers, and the age at which two children shall be considered equal to one statute adult, in ships that may clear out from any port or place within such territories; and also to declare in what manner and before what authorities, and by what form of proceedings, the penalties imposed and the sums of money made recoverable by this Act shall be sued for and recovered within such territories, and to what uses such penalties shall be applied: And on the passing of such *Indian* Act or Acts, and whilst the same shall remain in force, all such parts of this Act as shall be adopted therein shall apply to and extend to the carriage of passengers upon such voyages as in the said *Indian* Act or Acts shall be specified; and the same shall be enforced in all her Majesty's possessions in like manner as the provisions of this Act may be enforced: every such *Indian* Act shall be subject to disallowance and repeal, and shall in the same manner be transmitted to *England*, to be laid before both Houses of Parliament, as in the case of any other law made by the governor general in council.

Power to the governor general of India in council, by any Act to be passed for that purpose, to adopt this Act for India; and to make rules respecting food, passengers, &c.;

and to declare in what manner penalties, &c. may be sued for and recovered.

Indian Act may be enforced in the colonies in like manner as this Act.

Voyages to the United Kingdom.

LXXXVIII. THE master of every ship bringing passengers into the United Kingdom from any port or place out of *Europe* shall, within twenty-four hours after arrival, deliver to the emigration officer or his assistant, or in their absence to the chief officer of customs at the port of arrival, a correct list, signed by such master, and specifying the names, ages, and callings of all the passengers embarked, and also the port or ports at which they respectively may have embarked, and showing which, if any of them, may have died or

List of passengers brought into the United Kingdom to be delivered by the master of the ship to

Voyages to the United Kingdom.

have been born on the voyage; and if any master shall fail so to deliver such list, or if the same shall be wilfully false, he shall, on conviction, as herein-before mentioned, be liable to a penalty not exceeding fifty pounds.

emigration officer.

Penalty for neglect.

Penalty on masters for having on board a greater number of persons than prescribed by section 12 of this Act.

LXXXIX. If any ship bringing passengers into the United Kingdom from any place out of *Europe* shall have on board a greater number of persons or statute adults than in the proportions respectively prescribed in the twelfth section of this Act for ships carrying passengers from the United Kingdom, the master of such ship shall be liable, on such conviction as herein-before mentioned, to a penalty not exceeding five pounds nor less than two pounds for each such person or statute adult constituting any such excess.

Provisions and water to be issued to passengers brought into the United Kingdom the same as in ships carrying passengers from the same.

Penalty for default.

XC. The master of every passenger ship bringing passengers into the United Kingdom from any place out of *Europe* shall make to each statute adult during the voyage, including the time of detention, if any, at any port or place before the termination thereof, issues of pure water and of good and wholesome provisions in a sweet condition, in quantities not less in amount than is prescribed in the thirty-second section of this Act for passengers proceeding from the United Kingdom; and in case of any default herein, the master of such ship shall, on such conviction as herein-before mentioned, be liable for each offence to a penalty not exceeding fifty pounds.

Schedules to be part of the Act.

XCI. The schedules to this Act shall be deemed to be part of this Act, and all the marginal or other directions therein shall be duly followed and enforced, under a penalty not exceeding ten pounds on the person failing to obey the same respectively.

SCHEDULES to which the foregoing Act refers.

SCHEDULE (A.)

Form of Passengers List.

Ship's name.	Master's name.	Tons per register.	Aggregate number of superficial feet in the several compartments set apart for passengers other than cabin passengers.	Total number of statute adults, exclusive of master, crew, and cabin passengers, which the ship can legally carry.	Where bound.

I hereby certify, that the provisions actually laden on board this ship, according to the requirements of the Passengers Act, are sufficient for statute adults.

(Signature)——————————— Master.

Date ——————————185 .

Names and Descriptions of Passengers.

Ports of embarkation.	Names of passengers	Adults. Age.		Children between 14 and 1. Age.		Number of infants not older than 1 year.	Profession, occupation, or calling of passenger.	State whether English, Scotch, or Irish.	Port at which passengers have contracted to land.
		M.	F.	M.	F				

SUMMARY.

	Number of souls.				Equal to statute adults.
	English.	Scotch.	Irish.	Total	
Adults					
Children between 14 and 1 .					
Infants					
TOTAL .					

We hereby certify that the above is a correct list of the names and descriptions of all the passengers who embarked at the port of _____

(Signed) _____ Master.

_____ Emigration officer.

(Countersigned) _____ Officer of customs at _____

Date _____ 185 .

N. B.—Lines should be ruled in the same form for any additions to the list after the ship first clears out; and similar certificates be subjoined to such additions, according to the requirements of the Act.

SCHEDULE (B.)

FORM of BOND to be given by the OWNER or CHARTERER and by the MASTER.

KNOW all men by these presents, that we, are held and firmly bound unto our sovereign by the grace of God of the United Kingdom of Great Britain and Ireland Defender of the Faith, in the sum of one thousand pounds of good and lawful money of Great Britain, to be paid to our said the heirs and successors; to which payment well and truly to be made we bind ourselves and every of us, jointly and severally, for and in the whole, our heirs, executors, and administrators, and every of them, firmly by these presents. Sealed with our seals. Dated this day of one thousand eight hundred and fifty .

WHEREAS by the "Passengers Act, 1852," it is amongst other things enacted, that before any "passenger ship" shall clear out or proceed to sea, the owner or charterer, or in the absence of such owner or charterer, one good and sufficient person on his behalf, to be approved by the chief officer of customs at the port of clearance, shall, with the master of the said ship,

enter into a bond to Majesty, heirs and successors, in the sum of one thousand pounds.

Now the condition of this obligation is such, that if the ship whereof is master, bound to is in all respects seaworthy, * [and if the said ship shall call at the port of and there shall be shipped on board at such port pure water for the use of the passengers, sufficient in quantity to afford an allowance of three quarts daily to each statute adult for the period of days on the voyage from such port to the final port or place of discharge of such vessel,] and if (notwithstanding any penalty by the said Act imposed, and whether the same may have been sued for and recovered or not,) all and every the requirements of the said Passengers Act, 1852, (except such of them as relate exclusively to passage brokers,) and of the colonial land and emigration commissioners acting in the manner prescribed by the said Act, and of any order in council passed in virtue of the said Act, shall in all respects be well and truly performed,† [and if the master for the time being of the said ship shall submit himself, in like manner as a British subject being the master of a British passenger ship, to the jurisdiction of the tribunals in Majesty's possessions abroad, empowered by the said Act to adjudicate on offences committed against the said Act,] and if moreover all penalties, fines, and forfeitures which the master of such ship may be adjudged to pay for or in respect of the breach or nonfulfilment of any of such requirements as aforesaid shall be well and truly paid, then this obligation to be void, otherwise to remain in full force and virtue.

* The clause within brackets is to be inserted only when the ship is to call at an intermediate port to take in water, as provided by s. 31 of the Act.

† This clause to be inserted only in the case of a foreign passenger ship proceeding to any of the British colonies.

Signed, sealed, and delivered by the above-bounden and in the presence of ‡

‡ Insert names and addresses in full of the witnesses.

§ [I hereby certify, that the above bond was duly signed, sealed, and delivered according to the law of Great Britain by the said master of the said ship and by the said].

(Signature)———————— { Chief officer of customs for the port of .

(Date)————————185 .

§ Certificate to be signed by the chief officer of customs in case of a foreign passenger ship, and forwarded with the bond to the colony, according to s. 60 of the Act.

SCHEDULE (C.)

FORM of PASSAGE BROKER'S ANNUAL BOND, with two sureties, to be approved by the emigration officer at the nearest port.

KNOW all men by these presents, that we, *A.B.*‖ of *C.D.* of, &c. and *E.F.* of, &c. are held and firmly

‖ Insert christian and surnames in

full, with occupations and address of each of the parties.

bound unto our sovereign by the grace of God of the United Kingdom of Great Britian and Ireland Defender of the Faith, in the sum of five hundred pounds of good and lawful money of Great Britain, to be paid to our said the heirs and successors; to which payment, well and truly to be made, we bind ourselves and every of us, jointly and severally, for and in the whole, our heirs, executors, and administrators, and every of them, firmly by these presents. Sealed with our seals. Dated this day of one thousand eight hundred and fifty

WHEREAS by the "Passengers Act, 1852," it is amongst other things enacted, that no person whatever shall carry on the business of a passage broker in respect of passages from the United Kingdom to any place out of Europe, and not being within the Mediterranean Sea, or shall sell or let, or agree to sell or let, or be in anywise concerned in the sale or letting of passages in any ship, whether a "passenger ship" or otherwise, proceeding from the United Kingdom to any such place as aforesaid, unless such person, with two good and sufficient sureties, to be approved by the emigration officer at the port nearest the place of business of such person, shall have previously entered into a joint and several bond to her Majesty, her heirs and successors, in the sum of five hundred pounds sterling: And whereas the said *C.D.* and *E.F.* have been duly approved by the proper emigration officer as sureties for the said *A.B.*:

Now the condition of this obligation is such, that if the above-bounden *A.B.* shall well and truly observe and comply with all the requirements of the said recited Act, so far as the same relate to passage brokers, and further shall well and truly pay all fines, forfeitures, and penalties, and also all sums of money, by way of subsistence money, or of return of passage money and compensation, to any passenger, or on his account, and also all costs which the above-bounden *A.B.* may at any time be adjudged to pay under or by virtue of any of the provisions of the said recited Act, then and in such case this obligation to be void, otherwise to remain in full force.

Signed, sealed, and delivered by the above-bounden *A.B.*, *C.D.*, and *E.F.*, in the presence of*

* Insert the names and addresses in full of the witnesses.

N.B.—This bond is to be executed in duplicate, in the presence of and to be attested by an emigration officer or his assistant, or an officer of customs, or a magistrate, or a notary public. One part is to be deposited with the colonial land and emigration commissioners in London, and the other part with the chief officer of customs at the port nearest to the place of business of the broker.

[*The bond is exempt from stamp duty, but must be renewed annually with the licence.*]

SCHEDULE (D.)

Form of Passage Broker's Licence.

*A.B.** of in the having shewn to the satisfaction of me (*or* us) the undersigned, that he hath given bond to Majesty, as by the "Passengers Act, 1852," required, and also given fourteen days' previous notice to the colonial land and emigration commissioners of his intention to make application for a licence to carry on the business of a passage broker in respect of passages from the United Kingdom to any place out of Europe, and not being within the Mediterranean Sea, I (*or* we), the undersigned, having had no sufficient cause shown to me (*or* us), and seeing no valid reason why the said *A.B.* should not receive such licence, do hereby license and authorize the said *A.B.* to carry on the business of a passage broker as aforesaid until the end of the present year, and thirty-one days afterwards, unless this licence shall be sooner determined by forfeiture for misconduct on the part of the said *A.B.*, as in the "Passengers Act, 1852," is provided.

* The christian and surnames in full, with the address and trade or occupation of the party applying for the licence, must be correctly inserted.

Given under my hand and seal (*or* our respective hands and seals), this day of 185 at———————

Signature——————— (L.S.) { Justices of the peace, police *or* stipendiary magistrate, *or* sheriff, *or* steward, *or* sheriff *or* steward substitute, *as the case may be.*

SCHEDULE (E.)

Form of Notice to be given to the colonial land and emigration commissioners by justices granting a licence.

Gentlemen,

This is to give you notice, that we (*or* I), the undersigned, did on the day of 185 license *A.B.* of† to carry on the business of a passage broker under the provisions of the "Passengers Act, 1852."

† Insert the christian and surnames in full, with the address and occupation of the party.

Signatures——————— } Justices of the peace, *or as the case may be.*

Place———————————————

Date———————————————

To the colonial land and emigration commissioners, London.

SCHEDULE (F.)

FORM of NOTICE to be given to her Majesty's colonial land and emigration commissioners, by any applicant for a passage broker's licence.

Gentlemen,

I, *A.B.** of in do hereby give you notice, that it is my intention to apply, after the expiration of fourteen clear days from the putting of this notice into the post, to the justices to be assembled in petty sessions to be held† (*or* to the police *or* stipendiary magistrate for the city *or* borough *or* district of *or if in Scotland* to the sheriff *or* steward of *as the case may be*) for a licence to carry on the business of a passage broker under the provisions of the "Passengers Act, 1852."

* The christian names and surname in full, with the address and trade or occupation of the party applying for a licence, must be here correctly inserted.

† The place or district in which the party giving the notice has his place of business.

*Signature*_____

*Date*_____

To her Majesty's colonial land and emigration commissioners, London.

SCHEDULE (G.)

FORM of NOTICE to be given to the colonial land and emigration commissioners of forfeiture of a licence.

Gentlemen,

THIS is to give you notice, that the licence granted on the day of 185 to *A.B.*‡ of in to act as a passage broker, was on the day of now last past duly declared by me (*or* us) the undersigned justices of the peace in petty sessions assembled, to be forfeited.§

‡ The christian and surnames in full, with the address and trade or occupation of the party, to be here inserted.

§ Here state generally the reason of forfeiture.

*Signatures*_____

_____

*Place and date*_____185

To the colonial land and emigration commissioners, London.

SCHEDULE (H.)

PASSENGERS' CONTRACT TICKET.

THIS part of the contract ticket is to be separated from the other, and to be delivered by the passenger to the emigration officer at the port of embarkation, (or, if no such officer, to the officer of customs,) or to any one appointed by him to receive it.

CONTRACT TICKET

Ship ———— to sail from ———— for ———— on the ———— day of ———— 185——.

NAMES	AGES

———— souls, equal to * ———— statute adults.

Passage money including all charges £

To be signed in full by the party issuing the ticket } ————

* Insert number of souls and of statute adults.

These directions, and the "notices to passengers' below, form part of, and must appear on, each contract ticket.

1. A contract ticket in this form must be given to every passenger engaging a passage from the United Kingdom to any place out of Europe, and not being within the Mediterranean Sea

2 The victualling scale for the voyage must be printed in the body of the ticket.

3 All the blanks must be correctly filled in, and the ticket must be legibly signed with the christian names and surname and address in full of the party issuing the same

4 The day of the month on which the ship is to sail must be inserted in words and not in figures

5 When once issued this ticket must not be withdrawn from the passenger, nor any alteration or erasure made in it.

Ship ———— of ———— tons register, to sail from ———— for ———— on the ———— day of ———— 185—

NAMES.	AGES	Equal to statute adults

I engage that the parties herein named shall be provided with a steerage passage to the port of ——— in ——— in the ship ———— with not less than ten cubic feet for luggage for each statute adult, and shall be victualled during the voyage and the time of detention at any place before its termination, according to the subjoined scale, for the sum of £———— including government dues before embarkation, and head money, if any, at the place of landing, and every other charge, except freight for excess of luggage beyond the quantity above specified, and I hereby acknowledge to have received the sum of £———— in { full / part } payment.

In addition to any provisions which the passengers may themselves bring, the following quantities, at least, of water and provisions, (to be issued daily,) will be supplied by the master of the ship, as required by law, viz, to each statute adult 3 quarts of water daily, and a weekly allowance of provisions according to the following scale —

[Here insert the victualling scale intended to be used on the voyage This must be either the scale prescribed in the 32nd section of the Passengers Act, 1852, or that scale modified by the introduction of articles authorized by the Act, to be substituted for oatmeal, rice, and potatoes]

[N B —If mess utensils and bedding are to be provided by the ship, the stipulation must be inserted here]

Signature in full ————

Place and date ————

[If signed by a broker or agent, state on whose behalf]

Deposit £————

Balance £———— to be paid at ————

Iota ———— ———— ———— ————

NOTICES TO PASSENGERS.

1. If the ship do not proceed to sea on the day specified above, passengers, if ready to go on board, are entitled to subsistence money at the rate of one shilling a day per statute adult (each person of fourteen or two children between one and fourteen years of age being reckoned as a statute adult) for each day of delay until the final departure of the ship, but if the passengers are lodged and maintained in any establishment under the superintendence of the colonial land and emigration commissioners, the shilling a day is payable to the emigration officer at the port of embarkation In either case the money may be recovered by summary process before magistrates If, however, the ship is unavoidably detained by wind or weather, and if the passengers be maintained on board in the same manner as if the voyage had commenced, no subsistence money is payable

2. If passengers fail to obtain a passage in the ship, according to their contract, either from her having sailed before the appointed time, or from there being no room in her, or through any default of the owner, charterer, or master, and are not provided with a passage in some other equally eligible ship, to sail within 10 days to the same port, then they are entitled to a return of their passage money, and to such compensation, not exceeding £10 as the justices may award

3 Passengers should carefully keep this part of their contract ticket till after the end of the voyage

N B.—This contract ticket is exempt from stamp duty.

SCHEDULE (J.)

FORM of SUMMONS for a DEFENDANT or a WITNESS.

A.B. Complainant.
C.D. Defendant.

County, *or* city, *or* borough, *or* police district of , (*as the case may be*).

THIS is to command you to appear without fail on the day of instant (*or* next) at o'clock in the noon at before me, or other the magistrate or justices of the peace then and there present (1) [to answer the complaint of (an emigration officer, *or* assistant emigration officer, *or* officer of customs, *or* (*in the colonies*) a government emigration (*or* immigration) agent, *as the case may be,*) for a breach of the section (*or* sections, *as the case may be,*) of the Passengers Act, 1852,] (2) [*or*, to give evidence in the above-named complaint of *A.B.* against *C.D.* for breach of the Passengers Act, 1852.]

(1) Insert this when the defendant is summoned.

(2) Insert this in case a witness is summoned.

Signed———— Justice of the peace, *or* police *or* stipendiary magistrate, *or* sheriff, *or* steward, *or* sheriff substitute, *or* steward substitute, *as the case may be.*

Dated this day of one thousand eight hundred and fifty-two.

To————

SCHEDULE (K.)

FORM of CONVICTION and ORDER of ADJUDICATION under the Passengers Act, 1852, when the DEFENDANT appears.

A.B. Complainant.
C.D. Defendant.

County, *or* city, *or* borough, *or* police district, *or* steward of (*as the case may be*).

BE it remembered, that on the day of instant, *C.D.* of personally came before me (*or* us, *as the case may be,*) at to answer the complaint of *A.B.* (1) for a breach of the (section *or* sections, *as the case may be,*) of the Passengers Act, 1852, in that (2.)

Whereupon I (*or* we) did proceed to examine into the complaint so made against the said *C.D.*, and the same having been (admitted to be true by the said *C.D.* *or as the case may be,*) fully proved to my (*or* our) satisfaction by the testimony on oath of *E.F.* (3) a credible witness (*or* witnesses), I (*or* we) (4) [do convict him the said *C.D.* of the offence (*or* offences) aforesaid; and I (*or* we)]

(1) State whether emigration officer, or officer of customs, or government emigration agent, or passenger of the ship— as the case may be.

(2) Here describe briefly and ingeneral terms the requirement (or requirements) of the Act which

do adjudge and order that he shall pay to the said *A.B.* as such (emigration officer, *or* government emigration agent, *or* officer of customs, *or* passenger of the ship , *as the case may be,*) the sum of *l.* by way of penalty (*or* by way of subsistence money, *or* of return of passage money, *as the case may be,*) [(5) and shall also pay to the said *A.B.* the further sum of *l.* as compensation for the loss and inconvenience occasioned to (6) by the loss of passage in the ship .]

(7) [And I (*or* we) do also adjudge and order that the licence granted to the said *C.D.* to act as a passage broker be forfeited.]

(8) [And I (*or* we) do hereby also adjudge and order that the sum of *l.* being a part not exceeding one moiety of the said penalty of *l.*, be applied to compensate (9) for the wrong or amage which he (she, *or* they) has (*or* have) sustained in this matter.]

And I (*or* we) do further adjudge and order, that the said *C.D.* shall forthwith pay to the said *A.B.* the further sum of *l.* for the costs and charges by him the said *A.B.* incurred in the prosecution of this matter.

Given under my hand and seal (*or* our hands and seal), this day of one thousand eight hundred and fifty .

Signature ——— { Justice of the peace, police *or* stipendiary magistrate, *or* sheriff, *or* steward, *or* sheriff *or* stewards substitute, *as the case may be,* for ——— (10)

FORM of CONVICTION and ORDER of ADJUDICATION where the DEFENDANT does not appear.

A.B. Complainant.
C.D. Defendant.

County, *or* city, *or* borough, *or* police district, *or* stewartry of , *as the case may be.*

BE it remembered, that *C.D.* of being duly summoned to answer the complaint of *A.B.* (1) for a breach of the section (*or* sections) of the Passengers Act, 1852, in that, &c. (2) did not appear before me (*or* us), pursuant to the said summons. Nevertheless, I (*or* we) did proceed to examine into the complaint so preferred against the said *C.D.*, and the same having been duly proved to my (*or* our) satisfaction by the testimony on oath of *E.F.* (3) a credible witness (*or* witnesses), I (*or* we) do, &c., (*proceed as in preceding form of conviction according to the circumstances of the case.*)

has not been fulfilled.

(3) Name the witness, or witnesses if more than one.

(4) Omit these words where there is no conviction, but only an order of adjudication.

(5) Insert this in cases where compensation is awarded.

(6) Name the passenger or passengers by or on whose behalf the compensation is awarded.

(7) Insert this where the offender is a passage broker, and his licence is declared forfeited.

(8) Insert this where compensation out of the penalty is awarded to any aggrieved passenger.

(9) Name the passenger or passengers.

(10) State county or district, &c. as the case may be.

(1) State whether emigration officer, or officer of customs, or government emigration agent, or passenger of the ship as the case may be.

(2) Describe briefly and in general terms the requirement (or requirements) of the Act which has not been fulfilled.

(3) Name the witness or witnesses.

15 & 16 VICTORIA. A. D. 1852.

Chapter LII.

An Act to enable Colonial and other Bishops to perform certain Episcopal Functions, under Commission from Bishops of England and Ireland.

[*30th June 1852*]

53 Geo. 3. c. 155.

Whereas by an Act passed in the fifty-third year of the reign of his Majesty King George the Third, intituled "An Act for continuing in "the East India Company for a further term the possession of the British "territories in India, with certain exclusive privileges, for establishing "further regulations for the government of the said territories and the better "administration of justice within the same, and for regulating the trade to "and from the places within the limits of the said company's charter," it was provided and enacted, that in case it shall please his Majesty, by his royal letters patent under the Great Seal of the United Kingdom of Great Britain and Ireland, to found and constitute one bishoprick for the whole of the said British territories in the East Indies and other parts within the limits of the said company's charter, and from time to time to nominate and appoint a bishop to such bishoprick, that such bishop shall not have or use any jurisdiction or exercise any episcopal functions whatsoever, either in the East Indies or elsewhere, but only such jurisdiction and functions as shall or may from time to time be limited to him by his Majesty, by letters patent under the Great Seal of the said United Kingdom: And whereas by an Act passed in the third and fourth years of the reign of his Majesty King William the Fourth, intituled "An Act for effecting an arrangement with the East India "Company, and for the better government of his Majesty's Indian territories, "till the thirtieth day of April one thousand eight hundred and fifty-four," it was provided and enacted, that in case it shall please his Majesty to erect, found, and constitute two bishopricks, one to be styled the bishoprick of Madras, and the other the bishoprick of Bombay, and from time to time to nominate and appoint bishops to such bishopricks, under the style and title of Bishop of Madras and Bombay respectively, that such bishops shall not have or use any jurisdiction or exercise any episcopal functions whatsoever, either in the said territories or elsewhere, but only such jurisdiction and functions as shall and may from time to time be limited to them respectively by his Majesty by his royal letters patent under the Great Seal of the said United Kingdom: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and

3 & 4 Will. 4. c. 85.

commons, in this present Parliament assembled, and by the authority of the same, as follows:

I. NOTWITHSTANDING anything in the said Acts or in any letters patent as aforesaid contained, it shall be lawful for any bishop who by virtue of such royal letters patent under the Great Seal of the said United Kingdom shall exercise or have exercised in the British territories aforesaid the office of bishop of Calcutta, or Madras, or Bombay respectively, upon the request and by the commission in writing under the hand and seal of the bishop of any diocese in England or Ireland, and with the consent and licence in writing of the archbishop of the province within which such diocese shall be situated, to ordain any persons, provided such persons shall be presented to him under the direction and authority of the bishop of such diocese, and to perform all other functions peculiar and appropriate to the order of bishops within the limits of such diocese.

East Indian bishops, under commission from bishops in England and Ireland, may ordain, &c. in the dioceses of such last-mentioned bishops.

II. AND whereas by an Act passed in the fifty-ninth year of the reign of King George the Third, intituled "An Act to permit the Archbishops of "Canterbury and York and the Bishop of London for the time being to "admit persons into holy orders specially for the colonies," it was enacted, "that from and after the passing of this Act no person who shall have been "admitted into holy orders by the bishops of Quebec, Nova Scotia, or "Calcutta, or by any other bishop or archbishop than those of England and "Ireland, shall be capable of officiating in any church or chapel of England "or Ireland, without special permission from the archbishop of the province "in which he proposes to officiate, or of having, holding, or enjoying or of "being admitted to any parsonage or other ecclesiastical preferment in "England or Ireland, or of acting as curate therein, without the consent and "approbation of the archbishop of the province and also of the bishop of the "diocese in which any such parsonage or ecclesiastical preferment or curacy "may be situated"; and it was provided, "that no person who after the "passing of this Act shall have been ordained a deacon or priest by a colonial "bishop, who at the time of such ordination did not actually possess an "episcopal jurisdiction over some diocese, district, or place, or was not actually "residing within such diocese, district, or place, shall be capable, in any way "or on any pretence whatever, of at any time holding any parsonage or "other ecclesiastical preferment within his Majesty's dominions, or of being a "stipendiary curate or chaplain, or of officiating at any place or in any "manner as a minister of the Established Church of England and Ireland": And whereas by an Act passed in the third and fourth years of the reign of the Queen's most excellent Majesty, intituled "An Act to make certain pro-"visions and regulations in respect to the exercise, within England and

59 Geo. 3. c. 60.

3 & 4 Vict. c. 33.

"Ireland, by the bishops and clergy of the Protestant Episcopal Church in "Scotland, and also to extend such provisions and regulations to the bishops "and clergy of the Protestant Episcopal Church in the United States of "America, and also to make further regulations in respect to bishops and "clergy other than those of the United Church of England and Ireland," it was enacted, "that no person who has been or shall be ordained a deacon by "any Protestant bishop, other than an archbishop or bishop of the United "Church of England and Ireland, and who shall after the passing of this Act "be ordained a priest by any archbishop or bishop of the United Church of "England and Ireland, shall be thereby enabled, save as in this Act is pro-"vided, to exercise his office within England or Ireland": Be it enacted, and it is hereby enacted, that nothing in the said recited Acts contained shall extend or be held to extend to any person who, in pursuance of such request and commission as aforesaid from the bishop of any diocese in England or Ireland, shall have been or may hereafter be ordained a deacon or priest within the limits of such diocese by any bishop who by virtue of her Majesty's royal letters patent under the Great Seal of the United Kingdom of Great Britain and Ireland, shall exercise or have exercised the office of bishop within the British territories in India, or in any of her Majesty's colonies or foreign possessions; and that all admissions, institutions, and inductions to benefices in the United Church of England and Ireland, and all appointments to act as curates and chaplains therein, of persons so admitted into holy orders by any such bishop, shall, notwithstanding anything in the said recited Acts contained, be to all intents and purposes good and valid in law.

Admissions, institutions, &c. of persons ordained in an English or Irish diocese under commission from the bishop thereof by an East Indian or colonial bishop, to be valid, notwithstanding recited Acts.

III. Provided always, that all and every of such bishops, who, in accordance with the provisions of this Act, shall officiate in behalf of the bishop of any diocese in England or Ireland, in conferring holy orders, shall be subject to the several provisions and limitations established by the laws of this realm, or canons ecclesiastical, as to the titles of the persons to be ordained, and as to the oaths and subscriptions to be by such persons taken and made.

East Indian, &c. bishops so officiating shall be subject to the laws of the realm, &c. as to the titles, &c. of persons ordained by them.

IV. Provided also, that all letters of orders of persons ordained by any such bishop, in accordance with the provisions of this Act, shall be issued in the name and be subscribed with the signature of such bishop, as commissary of the bishop of the diocese at whose request and by whose commission he shall officiate in conferring such orders, and shall be sealed with the seal of the bishop of such diocese; and all such acts of ordination by any such bishop shall be recorded and registered in like manner as if they had been performed by the bishop of such diocese.

Letters of orders of persons so ordained shall be signed by the officiating bishop as commissary of the bishop for whom he officiates, &c.

V. Provided always, that nothing in this Act contained shall be construed

Act not to

to authorize any such bishop to use or exercise any jurisdiction whatsoever within the United Kingdom of Great Britain and Ireland.

confer jurisdiction in United Kingdom on such East Indian, &c. bishops.

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16 & 17 VICTORIA. A. D. 1853.

CHAPTER XLVIII.

An Act for the Punishment of Offences in the Colonies in relation to the Coin.

[*4th August 1853.*]

WHEREAS an Act was passed in the second year of King William the Fourth, "for consolidating and amending the laws against offences relating to the coin"; and such Act has been amended by an Act passed in the first year of her Majesty "to amend the law relative to offences punishable by transportation for life": And whereas it is expedient to extend the provisions of the said first-mentioned Act (as so amended) to her Majesty's colonies and possessions abroad in which provision may not have been already made for the like purpose: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

2 & 3 Will. 4, c. 34.

7. Will. 4 & 1 Vict. c. 90. s. 5.

I. THE provisions of the said first-mentioned Act, as amended as aforesaid, shall, except as herein-after otherwise provided, extend to and be in force in all her Majesty's colonies and possessions abroad.

2 & 3 Will 4. c 34, as amended by 7 Will. 4 & 1 Vict c 90, shall extend to the colonies.

II. IF any person shall import into any of her Majesty's colonies or possessions abroad any false or counterfeit coin resembling or apparently intended to resemble or pass for any of her Majesty's current gold or silver coin coined in any of her Majesty's mints (whether in the United Kingdom or elsewhere), knowing the same to be false or counterfeit, he shall be liable, at the discretion of the court, to be transported for life, or for any term not less than seven years, or to be imprisoned for any time not exceeding four years.

Punishment for importing counterfeit coin into the colonies.

III. PROVIDED always, that where by the law now in force in any such colony or possession provision is made for the punishment of offences relating to the coin, or relating to specified descriptions of the coin, the said Act and this Act respectively, so far as respects any offence punishable under the provisions of the law now in force as aforesaid, shall not extend to such colony or possession; but such offence shall be punished in such colony or possession as if this Act had not been passed.

This Act not to apply in any colony to any offence for the punishment whereof local provision is already made.

IV. PROVIDED also, that it shall be lawful for the local legislature of any such colony or possession, by any Act, law, or ordinance to be passed or made in the manner and subject to the conditions in and subject to which Acts,

Local legislatures may vary the provisions of this Act, &c.

laws, or ordinances may be passed or made by such local legislature, to alter or repeal, as regards such colony or possession, all or any of the provisions by this Act extended or made applicable to the said colonies or possessions, and generally by such Acts, laws, or ordinances to make such provision as they see fit in relation to the matters to which the said first-mentioned Act and this Act extend, in like manner as if this Act had not been passed.

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16 & 17 VICTORIA. A. D. 1853.

CHAPTER XLIX.

An Act to extend the Provisions of an Act of the Fifteenth and Sixteenth Years of Her present Majesty, intituled "An Act to enable Colonial and other Bishops to perform certain Episcopal Functions, under Commission from Bishops of England and Ireland."

[*4th August 1853.*]

15 & 16 Vict. c. 52. s. 2.

WHEREAS by an Act passed in the fifteenth and sixteenth years of the reign of her present Majesty, intituled "An Act to enable colonial and other bishops to perform certain episcopal functions, under commission from bishops of England and Ireland," it is enacted, that all admissions, institutions, and inductions to benefices in the United Church of England and Ireland, and all appointments to act as curates and chaplains therein, of persons admitted into holy orders in pursuance of a request and commission from the bishop of any diocese in England or Ireland, within the limits of his diocese, by any bishop who by virtue of her Majesty's Royal Letters Patent shall exercise or have exercised the office of bishop within the British territories in India, or in any of her Majesty's colonies or foreign possessions, shall be to all intents and purposes good and valid in law, notwithstanding anything contained in two several Acts therein recited, passed respectively in the fifty-ninth year of the reign of his Majesty King George the Third and in the third and fourth years of the reign of her present Majesty: And whereas it is expedient to extend the provisions of the said Act to dioceses in her Majesty's foreign and colonial possessions: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows: Notwithstanding anything in the said recited Acts or either of them contained to the contrary, all persons who have been or hereafter shall be ordained deacon or priest by any of the said bishops in or for the diocese of the bishop of any other of her Majesty's foreign or colonial possessions, upon his request in writing, shall be entitled to all the same rights, privileges, and

59 Geo. 3. c 60
3 & 4 Vict. c. 33.

Persons ordained by an East Indian, &c. bishop in another colonial diocese shall have like rights as if

advantages, as if he had been ordained by such bishop within the limits of a diocese over which he was at the time himself actually exercising jurisdiction, and residing therein.

ordained in the diocese of such bishop.

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16 & 17 VICTORIA. A. D. 1853.

CHAPTER LXXXIV.

An Act to amend the Passengers Act, 1852, so far as relates to the Passages of Natives of Asia or Africa, and also Passages between the Island of Ceylon and certain Parts of the East Indies. [*20th August 1853.*]

WHEREAS by the twelfth section of the Passengers Act of 1852[a] it is provided that no ship shall convey a greater number of passengers, exclusive of bonâ fide cabin passengers, than after the rate of one passenger for every fifteen superficial feet of the passenger deck if such ship be intended to pass within the tropics: And whereas it is expedient to enable the governors of her Majesty's possessions abroad to alter this provision in the case of natives of Asia or Africa: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

15 & 16 Vict. c. 44. s. 12.

I. IT shall be lawful for the governors of her Majesty's possessions abroad, if they shall think fit, to declare by proclamation that ships intended to pass within the tropics from any ports within their respective governments may convey passengers, being natives of Asia or Africa, after the rate of one for every twelve superficial feet of the passenger deck instead of one for every fifteen such superficial feet as required by the section aforesaid.

Governors of her Majesty's possessions abroad may prescribe certain rates of deckage for the conveyance of Asiatics and Afri-

II. AND whereas it is expedient to exempt from the operation of the whole of the said twelfth section vessels carrying passengers between the ports of Ceylon and the ports of the territories under the government of the East India

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[[a] 15 & 16 Vict. c. 44. s. 12., which is repealed, 18 & 19 Vict., c. 119. s. 1., was as follows:
No ship shall clear out or shall proceed to sea with a greater number of passengers on board (exclusive of bonâ fide cabin passengers) than will allow of the appropriation to them of the following space on the "passenger decks," unoccupied by stores, not being the personal luggage of the passengers; (that is to say,) if the ship is not intended to pass within the tropics, twelve clear superficial feet for every statute adult; but if the ship is intended to pass within the tropics, fifteen such clear superficial feet for every statute adult: Nor (unless the ship be propelled by steam) with a greater number of persons on board (including the master and crew, and cabin passengers, if any, and counting two children above the age of one year and under that of fourteen as one person,) than in the proportion of one person to every two tons of the registered tonnage of such ship. If there shall be on board of any ship at or after the time of clearance a greater number either of persons or of passengers than in the proportions respectively herein-before mentioned, the master of such ship shall be liable on such conviction as herein-after is mentioned, to a penalty not exceeding five pounds nor less than two pounds sterling for each person or passenger constituting any such excess.]

Governor of Ceylon may regulate the number of passengers to be carried on certain vessels.

Company which lie within the Gulf of Manar and Palks' Straits: Be it therefore enacted, that the restrictions in the said twelfth section of the Passengers Act, 1852, shall not apply to vessels proceeding on any voyage from any port or place in the Island of Ceylon to any port or place in the territories under the government of the East India Company in the Gulf of Manar or Palks' Straits; but that it shall be lawful for the Governor and Legislative Council of Ceylon, if they shall so think fit, to regulate by ordinance the number of persons or passengers who may be carried on board of vessels proceeding on any such voyage as last aforesaid.

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16 & 17 VICTORIA. A. D. 1853.

CHAPTER XCV.

An Act to provide for the Government of India.

[*20th August 1853.*]

3 & 4 Will 4. c. 85.

WHEREAS by an Act passed in the session of Parliament holden in the third and fourth years of King William the Fourth, intituled "An Act for "effecting an arrangement with the East India Company, and for the better "government of his Majesty's Indian territories till the thirtieth day of April "one thousand eight hundred and fifty-four," the territories therein mentioned were continued under the government of the East India Company until the thirtieth day of April one thousand eight hundred and fifty-four, with the powers and subject to the superintendence, direction, and control therein mentioned; and the property and rights in the said Act mentioned were continued in the possession of the said Company in trust for the Crown for the service of the said government: And whereas it is expedient to provide for the government of the territories now in the possession and under the government of the said Company after the expiration of the term limited by the said Act: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Until Parliament shall otherwise provide, the British territories in India to continue under the government of the East India Company, subject to the provisions of this Act, &c.

I. UNTIL Parliament shall otherwise provide, all the territories now in the possession and under the government of the East India Company shall continue under such government in trust for her Majesty, her heirs and successors, with and under the powers and restrictions, and subject to the superintendence, direction, and control now by law applicable to such government, and subject also to the provisions of this Act; and all the provisions now in force of the said Act of the third and fourth years of King William the Fourth, and all other enactments whatsoever now in force with relation to the said Company and government and territories respectively, shall, save so far as the

same are altered by or are repugnant to this Act, continue in force after the said thirtieth day of April one thousand eight hundred and fifty-four, as if the said term had not expired; and no appointments, arrangements, or acts made or done under the provisions and enactments hereby continued, shall, by reason only of the expiration of the said term, cease or be affected.

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Provisions of 3 & 4 Will 4. c. 85. as to dividing Bengal into two presidencies, suspended by 5 & 6 Will. 4. c. 52., shall remain suspended, &c.

XV. THE provisions of the said Act of the third and fourth years of King William the Fourth, relating to the division of the presidency of Fort William in Bengal into two presidencies, and to the measures consequent thereupon, which have been suspended under the authority of the Act of the session holden in the fifth and sixth years of King William the Fourth, chapter fifty-two, shall remain suspended until the court of directors, under the direction and control of the Board of Commissioners for the Affairs of India, shall otherwise direct; and during the continuance of such suspension the provisions of such last-mentioned Act, authorizing the appointment of a lieutenant governor for the North-western Provinces, then under the government of the presidency of Fort William in Bengal, and the appointments and arrangements made thereunder, shall remain in full force.

A separate governor may be appointed for the presidency of Bengal, &c.

XVI. IT shall be lawful for the said court of directors, under such direction and control as aforesaid, if and when they think fit, at any time after the passing of this Act, to declare that the Governor General of India shall not be governor of the presidency of Fort William in Bengal, but that a separate governor shall be appointed for such presidency; and in such case a separate governor shall be from time to time appointed for such presidency accordingly, in manner provided by the said Act of the third and fourth years of King William the Fourth, in the case of vacancies happening in the offices of the governors of the presidencies of Fort Saint George and Bombay; and from and after the appointment of such governor, the power by the said Act vested in the Governor General of India of appointing a deputy governor of the said presidency of Fort William in Bengal shall cease; and unless and until a separate governor of such presidency shall be constituted as aforesaid, it shall be lawful for the court of directors, under such direction and control as aforesaid, if and when they think fit, at any time after the passing of this Act, to authorize and direct the Governor General of India in council to appoint from time to time any servant of the said Company who shall have been ten years in their service in India to the office of lieutenant governor of such part of the territories under the presidency of Fort William in Bengal as for the time being may not be under the Lieutenant Governor of the said North-western Provinces, and to declare and limit the extent of the authority of the lieutenant governor to be so appointed.

and in the meantime a lieutenant governor may be appointed for part of Bengal.

Directors may create one new presidency or authorize Governor General to appoint a lieutenant governor.

XVII. It shall be lawful for the court of directors of the said Company, under such direction and control, if and when they think fit, to constitute one new presidency within the territories subject for the time being to the government of the said Company, and to declare and appoint what part of such territories shall be subject to the government of such new presidency; and unless and until such new presidency be constituted as aforesaid, it shall be lawful for the said court of directors, under such direction and control as aforesaid, if and when they think fit, to authorize (in addition to such appointments as are herein-before authorized to be continued and made for the territories now and heretofore under the said presidency of Fort William) the appointment by the said Governor General in Council of a lieutenant governor for any part of the territories for the time being subject to the government of the said Company, and to declare for what part of the said territories such lieutenant governor shall be appointed, and the extent of his authority, and from time to time to revoke or alter any such declaration.

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Enactments as to existing presidencies to extend to new presidencies.

XIX. The provisions of the said Act of the third and fourth years of King William the Fourth, as amended by this Act, and all other provisions now in force for the administration of the executive government of the presidencies of Fort Saint George and Bombay respectively, and authorizing the revocation and suspension of the appointment of councils and the reduction of the number of councillors in such presidencies respectively, and as to the powers, duties, functions, and immunities of the governors of such presidencies respectively, and of such governors in their respective councils, and concerning or applicable to the appointment and provisional appointment of governors and members of council of the said presidencies respectively on vacancies, and otherwise providing for vacancies in the office of any such governor, and concerning the removal and dismissal of such governors and members of council, and the revocation of appointments and provisional appointments of governors and members of council of such presidencies, and concerning the salaries and emoluments of such governors and members of council, shall extend and be applicable in like manner to and in the case of any new presidency to be established as aforesaid under this Act, and also to and in the case of the presidency of Agra, in case the same be constituted under the provisions of the said Act of the third and fourth years of King William the Fourth; and the said provisions concerning appointments of governors and members of council on vacancies, as amended by this Act, shall extend and be applicable to and for the first appointment of a governor and members of council of such new presidency and the presidency of Agra aforesaid.

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XXVII. All fines and penalties incurred by the sentence or order of any court of justice within the territories under the government of the East India Company, and all forfeitures for crimes of any real or personal estate within the said territories, and all real and personal estate within the said territories escheating or lapsing for want of an heir or successor, and all property within the said territories devolving as bonâ vacantia for want of a rightful owner, shall (as part of the revenues of India) belong to the East India Company in trust for her Majesty for the service of the government of India: Provided also, that the Governor General in Council, and any other person or persons who may be authorized by any Act passed in that behalf by the Governor General in Council, shall have power (in cases where the same may appear suitable and proper) to make any grant or disposition of any property so accruing by forfeiture, escheat, or otherwise, to or in favour of any relative or connexion of the person from whom the same shall have accrued, or to or in favour of any other person or persons.

Fines and penalties, &c. to belong to the East India Company in trust for her Majesty for the service of the government of India, &c.

XXVIII. And whereas by the said Act of the third and fourth years of King William the Fourth it was provided, that commissioners to be appointed thereunder, and to be styled the Indian Law Commissioners, should inquire into the jurisdiction, powers, and rules of the existing courts of justice and police establishments in the said territories, and all existing forms of judicial procedure, and into the nature and operation of all laws, whether civil or criminal, written or customary, prevailing and in force in any part of the said territories, and should from time to time make reports, in which they should fully set forth the result of their inquiries, and should from time to time suggest such alterations as might in their opinion be beneficially made in the said courts of justice and police establishments, forms of judicial procedure, and laws, due regard being had to the distinction of castes, difference of religion, and the manners and opinions prevailing among different races and in different parts of the said territories: And whereas the Indian Law Commissioners from time to time appointed under the said Act have, in a series of reports, recommended extensive alterations in the judicial establishments, judicial procedure, and laws established and in force in India, and have set forth in detail the provisions which they have proposed to be established by law for giving effect to certain of their recommendations; and such reports have been transmitted from time to time to the said court of directors; but on the greater part of such reports and recommendations no final decision has been had:

3 & 4 Will 4. c. 85. s. 53.

It shall be lawful for her Majesty, at any time after the passing of this Act, by commission under the Royal Sign Manual, to appoint such and so many persons in England as to her Majesty may seem fit to examine and

Her Majesty may appoint Commissioners in

England to consider and report on the reforms proposed by the Indian Law Commissioners.

consider the recommendations of the said Indian Law Commissioners, and the enactments proposed by them for the reform of the judicial establishments, judicial procedure, and laws of India, and such other matters in relation to the reform of the said judicial establishments, judicial procedure, and laws, as may, by or with the sanction of the Commissioners for the Affairs of India, be referred to them for their consideration, and to authorize and direct the persons so appointed, or such number as may be limited by their commission in this behalf, to report their opinion to her Majesty on the matters aforesaid, and especially to report from time to time what laws or regulations should be made or enacted in relation to the matters aforesaid, but so that every such report be made within three years after the passing of this Act; and for the purposes of such examination it shall be lawful for her Majesty to authorize the persons so appointed, or the number limited by the commission in this behalf, to call before them and examine in England such persons in the service of the Crown and the said Company respectively, and to require the production of such official documents in the possession of the Board of Commissioners for the Affairs of India, or of the said Company, as they may think fit.

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Court of directors may establish regulations as to absence on sick leave or furlough.

XXXII. NOTHING in any enactment now in force, or any charter, relating to the said Company, shall be taken to prevent the establishment, by the court of directors (under the direction and control of the said Board of Commissioners), at any time after the passing of this Act, and from time to time, of any regulations which they may deem expedient in relation to the absence on sick leave or furlough of all or any officers and persons in the service of the said Company in India, or receiving salaries from the said Company there, under which they respectively may be authorized to repair to and reside in Europe or elsewhere out of the limits of the said Company's charter, without forfeiture of pay or salary, during the times and under the circumstances during and under which they may now be permitted (while absent from their duty) to reside in places out of India within the limits of the said Company's charter, or during such times and under such circumstances as by such regulations may be permitted.

* * * * * * * * *

Salaries.

XXXV. THERE shall be paid to the several officers herein-after named the several annual salaries set against the names of such officers respectively, subject to such reduction as the court of directors, with the sanction of the said Board, may from time to time think fit; (that is to say,)

To the Commander-in-Chief of the Forces in India, one hundred thousand Company's rupees, in lieu of all other pay and allowances:

To each Lieutenant Governor, one hundred thousand Company's rupees:

. . . . . .

The several salaries aforesaid to be subject to the provisions and regulations of the said Act of the third and fourth years of King William the Fourth, concerning the salaries thereby appointed: . . . . . .

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16 & 17 VICTORIA. A. D. 1853.

Chapter CVII.

An Act to amend and consolidate the Laws relating to the Customs of the United Kingdom and of the Isle of Man, and certain Laws relating to Trade and Navigation and the British Possessions. [*20th August 1853.*]

Whereas it is expedient that the several Acts now in force for the management and regulation of customs, the prevention of smuggling, the encouragement of British shipping and navigation, the warehousing of goods, the granting of drawbacks and allowances of customs, the regulation of the trade of the British possessions abroad and of the Isle of Man, should be consolidated into one Act: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

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Regulations by the Governor General of India in Council as to the coasting trade of India.

CCCXXIX. And with regard to the coasting trade of India, it shall be lawful for the Governor General of India in Council to make any regulations authorizing or permitting the conveyance of goods or passengers from one part of the possessions of the East India Company to another part thereof in other than British ships, subject to such restrictions or regulations as he may think necessary; and such regulations shall be of equal force and effect with any laws and regulations which the said Governor General in Council is now or may hereafter be authorized to make, and shall be subject to disallowance and repeal in like manner as any other laws or regulations made by the said Governor General in Council, under the laws from time to time in force for the government of the British territories in India, and shall be transmitted to England, and be laid before both Houses of Parliament, in the same manner as any other laws or regulations which the Governor General in Council is now or may hereafter be empowered to make.

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17 & 18 VICTORIA. A. D. 1854.

CHAPTER LXXVII.

An Act to provide for the Mode of passing Letters Patent and other Acts of the Crown relating to India, and for vesting certain Powers in the Governor General of India in Council. [*7th August 1854.*]

WHEREAS doubts may arise as to the mode of passing letters patent and other Acts of the Crown relating to India in certain cases where her Majesty's pleasure is to be signified under her Royal Sign Manual, and it is expedient to remove such doubts, and to provide an uniform mode of proceeding in such cases: And whereas it is expedient to provide for the administration by the Governor General of India in Council of such parts of the territories for the time being under the government of the East India Company as it may not be advisable to include in any presidency or lieutenant governorship, and to vest in such Governor General of India in Council the powers now vested in the Governor of the Presidency of Fort William in Bengal: Be it enacted and declared therefore by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Warrants for letters patent for appointments in or other purposes relating to India shall be countersigned by the President of the Board of Control;

1. WHENEVER it shall please her Majesty to cause letters patent to be issued under the Great Seal of the United Kingdom for the nomination or appointment of any person to any office in India, or to any office relating to the government thereof, or for any other purpose whatsoever relating to India, the warrant under her Majesty's Royal Sign Manual for causing such letters patent to be passed under the said Great Seal shall be countersigned by the President of the Board of Commissioners for the Affairs of India, and by no other person, and shall be sealed with the Privy Seal, for which sealing such Royal Sign Manual so countersigned shall be sufficient warrant to the Lord Keeper of the Privy Seal; and such warrant under the Royal Sign Manual, so countersigned and sealed as aforesaid, shall be a sufficient authority to the Lord High Chancellor, or Lord Keeper or Lords Commissioners of the Great Seal of the United Kingdom, for passing letters patent under such Great Seal, according to the tenor of the same warrant; and whenever her Majesty's Royal Sign Manual is or may be required to any warrant or writing for the appointment or removal of any person to or from any office in India, or any office relating to the government thereof, or is or may be required to any warrant or writing, for the purpose of signifying her Majesty's approbation or consent to any appointment or removal to or from any such office, or for any

as also shall warrants under the Royal Sign Manual for any such purpose.

other purpose whatsoever relating to India, such warrant or writing shall be countersigned by the president of the said board, and by no other person;

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3. It shall be lawful for the Governor General of India in Council, with the sanction and approbation of the Court of Directors of the East India Company, acting under the control and direction of the Board of Commissioners for the Affairs of India, from time to time, by proclamation duly published, to take under the immediate authority and management of the said Governor General of India in Council any part or parts of the territories for the time being in the possession or under the government of the said company, and thereupon to give all necessary orders and directions respecting the administration of such part or parts of the said territories, or otherwise to provide for the administration thereof: Provided always, that no law or regulation in force at any such time as regards any such portion of territory shall be altered or repealed except by law or regulation made by the Governor General of India in Council.

Governor General of India in Council may by proclamation assume the immediate government of any parts of the East India Company's territories.

4. It shall be lawful for the said Governor General of India in Council, with the like sanction and approbation, from time to time to declare and limit the extent of the authority of the Governor in Council, Governor, or Lieutenant Governor of Bengal, or of Agra, or the North-west Provinces, who is now or may be hereafter appointed.

Governor General may limit the extent of the authority of the Governors, &c. herein named.

5. All powers now or at any time vested in or exercised by the Governor in Council or Governor of the Presidency of Fort William in Bengal, or in or by the Governor General of India in Council in respect of such presidency, and which for the time being shall not have been transferred to the Governor in Council, Governor, or Lieutenant Governor of Bengal, or of Agra, or the North-west Provinces, shall be vested in and may be exercised by the Governor General of India in Council; and the Governor General of India shall no longer be the Governor of the said Presidency of Fort William in Bengal.

Powers as to Presidency of Fort William in Bengal not transferred to Governor, &c. of Bengal, Agra, or North-west Provinces, vested in Governor General of India in Council.

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17 & 18 VICTORIA. A. D. 1854.

Chapter CIV.

An Act to amend and consolidate the Acts relating to Merchant Shipping.

[*10th August 1854.*]

Whereas it is expedient to amend and consolidate the Acts relating to merchant shipping: Be it therefore enacted by the Queen's most excellent

Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

Preliminary.

Short title of Act.

1. THIS Act may be cited for all purposes as "The Merchant Shipping Act, 1854."

Interpretation of certain terms in this Act.

2. IN the construction and for the purposes of this Act (if not inconsistent with the context or subject matter) the following terms shall have the respective meanings herein-after assigned to them; that is to say,

"Her Majesty's dominions" shall mean her Majesty's dominions strictly so called, and all territories under the government of the East India Company, and all other territories (if any) governed by any charter or licence from the Crown or Parliament of the United Kingdom:

"The United Kingdom" shall mean Great Britain and Ireland:

"British possession" shall mean any colony, plantation, island, territory, or settlement, within her Majesty's dominions, and not within the "United Kingdom":

"The Treasury" shall mean the Commissioners of her Majesty's Treasury:

"The Admiralty" shall mean the Lord High Admiral, or the Commissioners for executing his office:

"The Board of Trade" shall mean the Lords of the Committee of Privy Council appointed for the Consideration of Matters relating to Trade and Foreign Plantations:

"The Trinity House" shall mean the Master, Wardens, and Assistants of the Guild, Fraternity, or Brotherhood of the Most Glorious and Undivided Trinity and of St. Clement in the parish of Deptford Strond in the county of Kent, commonly called the Corporation of the Trinity House of Deptford Strond:

"The Port of Dublin Corporation" shall mean the Corporation for preserving and improving the Port of Dublin:

"Consular officer" shall include consul general, consul, and vice consul, and any person for the time being discharging the duties of consul general, consul, or vice consul:

"Receiver" shall mean any person appointed in pursuance of this Act receiver of wreck:

"Pilotage authority" shall include all bodies and persons authorized to appoint or license pilots, or to fix or alter rates of pilotage, or to exercise any jurisdiction in respect of pilotage:

Preliminary.

"Pilot" shall mean any person not belonging to a ship who has the conduct thereof:

"Qualified pilot" shall mean any person duly licensed by any pilotage authority to conduct ships to which he does not belong:

"Master" shall include every person (except a pilot) having command or charge of any ship:

"Seaman" shall include every person (except masters, pilots, and apprentices duly indentured and registered,) employed or engaged in any capacity on board any ship:

"Salvor" shall, in the case of salvage services rendered by the officers or crew or part of the crew of any ship belonging to her Majesty, mean the person in command of such ship:

"Person" shall include body corporate:

"Ship" shall include every description of vessel used in navigation not propelled by oars:

"Foreign-going ship" shall include every ship employed in trading or going between some place or places in the United Kingdom, and some place or places situate beyond the following limits; that is to say, the coasts of the United Kingdom, the Islands of Guernsey, Jersey, Sark, Alderney, and Man, and the Continent of Europe between the river Elbe and Brest inclusive:

"Home-trade ship" shall include every ship employed in trading or going within the following limits; that is to say, the United Kingdom, the Islands of Guernsey, Jersey, Sark, Alderney, and Man, and the Continent of Europe between the river Elbe and Brest inclusive:

"Home-trade passenger ship" shall mean every home-trade ship employed in carrying passengers:

"Lighthouses" shall, in addition to the ordinary meaning of the word, include floating and other lights exhibited for the guidance of ships, and "buoys and beacons" shall include all other marks and signs of the sea:

"Wreck" shall include jetsam, flotsam, lagan, and derelict found in or on the shores of the sea or any tidal water.

Commencement of Act.

3. THIS Act shall come into operation on the first day of May one thousand eight hundred and fifty-five.

Exemption of her Majesty's ships.

4. THIS Act shall not, except as herein-after specially provided, apply to ships belonging to her Majesty.

Division of Act.

5. THIS Act shall be divided into eleven parts:—

The first part relating to the Board of Trade: its general functions:

The second part to British ships: their ownership, measurement, and registry:

Preliminary.

The third part to masters and seamen:
The fourth part to safety and prevention of accidents
The fifth part to pilotage:
The sixth part to lighthouses:
The seventh part to the Mercantile Marine Fund:
The eighth part to wrecks, casualties, and salvage:
The ninth part to liability of shipowners:
The tenth part to legal procedure:
The eleventh part to miscellaneous matters.

PART I.

THE BOARD OF TRADE: ITS GENERAL FUNCTIONS.

Functions of Board of Trade.

Board of Trade to be department to superintend merchant shipping.

6. THE Board of Trade shall be the department to undertake the general superintendence of matters relating to merchant ships and seamen, and shall be authorized to carry into execution the provisions of this Act, and of all other Acts relating to merchant ships and seamen in force for the time being, other than such Acts as relate to the revenue.

Certificates and documents purporting to be sealed or signed in a given manner to be received in evidence.

7. ALL documents whatever purporting to be issued or written by or under the direction of the Board of Trade, and purporting either to be sealed with the seal of such Board, or to be signed by one of the secretaries or assistant secretaries to such Board, shall be received in evidence, and shall be deemed to be issued or written by or under the direction of the said Board, without further proof, unless the contrary be shown; and all documents purporting to be certificates issued by the Board of Trade in pursuance of this Act, and to be sealed with the seal of such Board, or to be signed by one of the officers of the Marine Department of such Board, shall be received in evidence, and shall be deemed to be such certificates, without further proof, unless the contrary be shown.

Board of Trade to issue forms of instruments.

8. THE Board of Trade may from time to time prepare and sanction forms of the various books, instruments, and papers required by this Act, other than those required by the second part thereof, and may from time to time make such alterations therein as it deems requisite; and shall, before finally issuing or altering any such form, give such public notice thereof as it deems necessary in order to prevent inconvenience; and shall cause every such form to be sealed with such seal as aforesaid, or marked with some other distinguishing mark, and to be supplied at the custom houses and shipping offices of the United Kingdom free of charge, or at such moderate prices as it may from time to time fix, or may license any persons to print and sell the same; and every such book, instrument, and paper as aforesaid shall be made in the form

Functions of Board of Trade.

issued by the Board of Trade, and sanctioned by it as the proper form for the time being; and no such book, instrument, or paper as aforesaid, unless made in such form, shall be admissible in evidence in any civil proceeding on the part of any owner or master of any ship; and every such book, instrument, or paper, if made in a form purporting to be a proper form, and to be sealed or marked as aforesaid, shall be taken to be made in the form hereby required, unless the contrary is proved.

Certain forms and instruments to be exempt from stamp duty.

9. ALL instruments used in carrying into effect the second part of this Act, if not already exempted from stamp duty, and all instruments which by the third, fourth, sixth, or seventh parts of this Act are required to be made in forms sanctioned by the Board of Trade, if made in such forms, and all instruments used by or under the direction of the Board of Trade in carrying such parts of this Act into effect, shall be exempt from stamp duty.

Penalties for forgery of seal and fraudulent alteration of forms, and for using forms not issued by Board of Trade.

10. EVERY person who forges, assists in forging, or procures to be forged, such seal or other distinguishing mark as aforesaid, or who fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any form issued by the Board of Trade, with the view of evading any of the provisions of this Act or any condition contained in such form, shall for each offence be deemed guilty of a misdemeanor; and every person who, in any case in which a form sanctioned by the Board of Trade is by the third part of this Act required to be used, uses without reasonable excuse any form not purporting to be so sanctioned, or who prints, sells, or uses any document purporting to be a form so sanctioned, knowing the same not to be so sanctioned for the time being, or not to have been prepared and issued by the Board of Trade, shall for each such offence incur a penalty not exceeding ten pounds.

Application of monies and fines paid to Board of Trade.

11. SUBJECT to the provisions herein-after contained, all fees and payments (other than fines) coming to the hands of the Board of Trade under the third and fourth parts of this Act shall be carried to the account of the Mercantile Marine Fund herein-after mentioned, and shall be dealt with as herein prescribed in that behalf; and all fines coming to the hands of the Board of Trade under this Act shall be paid into the receipt of her Majesty's Exchequer in such manner as the Treasury may direct, and shall be carried to and form part of the Consolidated Fund of the United Kingdom.

Returns to Board of Trade.

12. ALL consular officers, and all officers of Customs abroad, and all local marine boards and shipping masters, shall make and send to the Board of Trade such returns or reports on any matter relating to British merchant shipping or seamen as such Board requires; and all shipping masters shall, whenever required by the Board of Trade, produce to such board or to its officers all official log books and other documents which, in pursuance of this Act, are delivered to them.

Functions of Board of Trade.

Officers of Board of Trade, naval officers, consuls, the Registrar General of Seamen, officers of customs, and shipping masters, may inspect documents and muster crews.

13. Every officer of the Board of Trade, and every commissioned officer of any of her Majesty's ships on full pay, and every British consular officer, and the Registrar General of Seamen and his assistant, and every chief officer of Customs in any place in her Majesty's dominions, and every shipping master, may, in cases where he has reason to suspect that the provisions of this Act or the laws for the time being relating to merchant seamen and to navigation are not complied with, exercise the following powers; (that is to say,)

He may require the owner, master, or any of the crew of any British ship to produce any official log books or other documents relating to such crew, or any member thereof, in their respective possession or control:

He may require any such master to produce a list of all persons on board his ship, and take copies of such official log books, or documents, or of any part thereof:

He may muster the crew of any such ship:

He may summon the master to appear and give any explanation concerning such ship or her crew, or the said official log books or documents:

And if upon requisition duly made by any person so authorized in that behalf as aforesaid, any person refuses or neglects to produce any such official log book or document as he is herein-before required to produce, or to allow the same to be inspected or copied as aforesaid, or impedes any such muster of a crew as aforesaid, or refuses or neglects to give any explanation which he is herein-before required to give, or knowingly misleads or deceives any person herein-before authorized to demand any such explanation, he shall for each such offence incur a penalty not exceeding twenty pounds.

Board of Trade may appoint inspectors.

14. The Board of Trade may from time to time, whenever it seems expedient to them so to do, appoint any person as an inspector, to report to them upon the following matters; (that is to say,)

(1) Upon the nature and causes of any accident or damage which any ship has sustained or caused, or is alleged to have sustained or caused:

(2) Whether the provisions of this Act, or any regulations made under or by virtue of this Act, have been complied with:

(3) Whether the hull and machinery of any steam ship are sufficient and in good condition.

Powers of inspectors.

15. Every such inspector as aforesaid shall have the following powers; (that is to say,)

(1) He may go on board any ship, and may inspect the same or any part thereof, or any of the machinery, boats, equipments, or articles on

board thereof to which the provisions of this Act apply, not unnecessarily detaining or delaying her from proceeding on any voyage:

Functions of Board of Trade.

(2) He may enter and inspect any premises the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make:

(3) He may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine for such purpose, and may require answers or returns to any inquiries he thinks fit to make:

(4) He may require and enforce the production of all books, papers, or documents, which he considers important for such purpose:

(5) He may administer oaths, or may, in lieu of requiring or administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statements made by him in his examination:

Witnesses to be allowed expenses.

And every witness so summoned as aforesaid shall be allowed such expenses as would be allowed to any witness attending on subpœna to give evidence before any court of record, or, if in Scotland, to any witness attending on citation the Court of Justiciary; and in case of any dispute as to the amount of such expenses the same shall be referred by the inspector to one of the masters of her Majesty's Court of Queen's Bench in England or Ireland, or to the Queen's and Lord Treasurer's Remembrancer in Scotland, who, on a request made to him for that purpose under the hand of the said inspector, shall ascertain and certify the proper amount of such expenses; and every person who refuses to attend as a witness before any such inspector, after having been required so to do in the manner hereby directed, and after having had a tender made to him of the expenses (if any) to which he is entitled as aforesaid, or who refuses or neglects to make any answer, or to give any return, or to produce any document in his possession, or to make or subscribe any declarations which any such inspector is hereby empowered to require, shall for each such offence incur a penalty not exceeding ten pounds.

Penalty for refusing to give evidence.

Penalty for obstructing inspectors in the execution of their duty

16. Every person who wilfully impedes any such inspector appointed by the Board of Trade as aforesaid in the execution of his duty, whether on board any ship or elsewhere, shall incur a penalty not exceeding ten pounds, and may be seized and detained by such inspector or other person, or by any person or persons whom he may call to his assistance, until such offender can be conveniently taken before some justice of the peace or other officer having proper jurisdiction.

PART II.

BRITISH SHIPS: THEIR OWNERSHIP, MEASUREMENT, AND REGISTRY.

Application.

Application of part II. of Act.

Application.

17. THE second part of this Act shall apply to the whole of her Majesty's dominions.

Description and ownership of British ships.

Description and ownership of British ships.

Description and Ownership of British Ships.

18. No ship shall be deemed to be a British ship unless she belongs wholly to owners of the following description; that is to say,

(1) Natural-born British subjects:

Provided that no natural-born subject who has taken the oath of allegiance to any foreign sovereign or state shall be entitled to be such owner as aforesaid, unless he has subsequently to taking such last-mentioned oath taken the oath of allegiance to her Majesty, and is and continues to be during the whole period of his so being an owner resident in some place within her Majesty's dominions, or, if not so resident, member of a British factory, or partner in a house actually carrying on business in the United Kingdom, or in some other place within her Majesty's dominions:

(2) Persons made denizens by letters of denization, or naturalized by or pursuant to any Act of the imperial legislature, or by or pursuant to any Act or ordinance of the proper legislative authority in any British possession:

Provided that such persons are and continue to be during the whole period of their so being owners resident in some place within her Majesty's dominions, or, if not so resident, members of a British factory, or partners in a house actually carrying on business in the United Kingdom, or in some other place within her Majesty's dominions, and have taken the oath of allegiance to her Majesty subsequently to the period of their being so made denizens or naturalized:

(3) Bodies corporate established under, subject to the laws of, and having their principal place of business in, the United Kingdom or some British possession.

British ships, with certain exceptions, must be registered.

19. EVERY British ship must be registered in manner herein-after mentioned, except,

(1) Ships duly registered before this Act comes into operation:

Description and ownership of British ships.

(2) Ships not exceeding fifteen tons burden employed solely in navigation on the rivers or coasts of the United Kingdom, or on the rivers or coasts of some British possession within which the managing owners of such ships are resident:

(3) Ships not exceeding thirty tons burden, and not having a whole or fixed deck, and employed solely in fishing or trading coastwise on the shores of Newfoundland or parts adjacent thereto, or in the gulf of St. Lawrence, or on such portion of the coasts of Canada, Nova Scotia, or New Brunswick as lie bordering on such gulf:

And no ship hereby required to be registered shall, unless registered, be recognized as a British ship; and no officer of Customs shall grant a clearance or transire to any ship hereby required to be registered for the purpose of enabling her to proceed to sea as a British ship, unless the master of such ship, upon being required so to do, produces to him such certificate of registry as is herein-after mentioned; and if such ship attempts to proceed to sea as a British ship without a clearance or transire, such officer may detain such ship until such certificate is produced to him.

Measurement of Tonnage.

Measurement of Tonnage.

Tonnage deck; feet; decimals.

20. THROUGHOUT the following rules the tonnage deck shall be taken to be the upper deck in ships which have less than three decks, and to be the second deck from below in all other ships; and in carrying such rules into effect all measurements shall be taken in feet and fractions of feet, and all fractions of feet shall be expressed in decimals.

RULE I.

For ships to be registered and other ship of which the hold is clear.

21. THE tonnage of every ship to be registered, with the exceptions mentioned in the next section, shall previously to her being registered be ascertained by the following rule, herein-after called Rule I.; and the tonnage of every ship to which such rule can be applied, whether she is about to be registered or not, shall be ascertained by the same rule:

Lengths.

(1) Measure the length of the ship in a straight line along the upper side of the tonnage deck, from the inside of the inner plank (average thickness) at the side of the stem to the inside of the midship stern timber or plank there, as the case may be (average thickness,) deducting from this length what is due to the rake of the bow in the thickness of the deck, and what is due to the rake of the stern timber in the thickness of the deck, and also what is due to the rake of the stern timber in one third of the round of the beam; divide the length so taken into the number of equal parts required by the following table, according to the class in such table to which the ship belongs:

Measurement of Tonnage.

TABLE.

Class 1. Ships of which the tonnage deck is according to the above measurement 50 feet long or under, into 4 equal parts :

„ 2. Ships of which the tonnage deck is according to the above measurement above 50 feet long and not exceeding 120, into 6 equal parts :

„ 3. Ships of which the tonnage deck is according to the above measurement above 120 feet long and not exceeding 180, into 8 equal parts :

„ 4. Ships of which the tonnage deck is according to the above measurement above 180 feet long and not exceeding 225, into 10 equal parts :

„ 5. Ships of which the tonnage deck is according to the above measurement above 225 feet long, into 12 equal parts.

Transverse areas.

(2) Then, the hold being first sufficiently cleared to admit of the required depths and breadths being properly taken, find the transverse area of such ship at each point of division of the length, as follows :—Measure the depth at each point of division, from a point at a distance of one third of the round of the beam below such deck, or, in case of a break, below a line stretched in continuation thereof, to the upper side of the floor timber at the inside of the limber strake, after deducting the average thickness of the ceiling which is between the bilge planks and limber strake; then, if the depth at the midship division of the length do not exceed sixteen feet, divide each depth into four equal parts; then measure the inside horizontal breadth at each of the three points of division, and also at the upper and lower points of the depth, extending each measurement to the average thickness of that part of the ceiling which is between the points of measurement; number these breadths from above (*i. e.* numbering the upper breadth one, and so on down to the lowest breadth); multiply the second and fourth by four, and the third by two ; add these products together, and to the sum add the first breadth and the fifth; multiply the quantity thus obtained by one third of the common interval between the breadths, and the product shall be deemed the transverse area; but if the midship depth exceed sixteen feet, divide each depth into six equal parts instead of four, and measure as before directed the horizontal breadths at the five points of division, and also at the upper and lower points of the depth; number them from above as before;

multiply the second, fourth, and sixth by four, and the third and fifth by two; add these products together, and to the sum add the first breadth and the seventh; multiply the quantity thus obtained by one third of the common interval between the breadths, and the product shall be deemed the transverse area. *Measurement of Tonnage.*

(3) Having thus ascertained the transverse area at each point of division of the length of the ship as required by the above table, proceed to ascertain the register tonnage of the ship in the following manner: Number the areas successively 1, 2, 3, &c., No. 1 being at the extreme limit of the length at the bow, and the last No. at the extreme limit of the length at the stern; then, whether the length be divided according to the table into four or twelve parts, as in classes 1 and 5, or any intermediate number, as in classes 2, 3, and 4, multiply the second and every even numbered area by four, and the third and every odd numbered area (except the first and last) by two; add these products together, and to the sum add the first and last, if they yield anything; multiply the quantity thus obtained by one third of the common interval between the areas, and the product will be the cubical contents of the space under the tonnage deck; divide this product by one hundred, and the quotient, being the tonnage under the tonnage deck, shall be deemed to be the register tonnage of the ship, subject to the additions and deductions herein-after mentioned. Computation from areas.

(4) If there be a break, a poop, or any other permanent closed-in space on the upper deck, available for cargo or stores, or for the berthing or accommodation of passengers or crew, the tonnage of such space shall be ascertained as follows: Measure the internal mean length of such space in feet, and divide it into two equal parts; measure at the middle of its height three inside breadths, namely, one at each end and the other at the middle of the length; then to the sum of the end breadths add four times the middle breadth, and multiply the whole sum by one third of the common interval between the breadths; the product will give the mean horizontal area of such space; then measure the mean height, and multiply by it the mean horizontal area; divide the product by one hundred, and the quotient shall be deemed to be the tonnage of such space, and shall be added to the tonnage under the tonnage deck, ascertained as aforesaid, subject to the following provisoes; first, that nothing shall be added for a closed-in space solely appropriated to the berthing of the crew, unless such space exceeds one twentieth Poop and any other closed-in space.

Measurement of Tonnage.

of the remaining tonnage of the ship, and in case of such excess the excess only shall be added; and, secondly, that nothing shall be added in respect of any building erected for the shelter of deck passengers, and approved by the Board of Trade.

In case of two or more decks.

(5) If the ship has a third deck, commonly called a spar deck, the tonnage of the space between it and the tonnage deck shall be ascertained as follows: Measure in feet the inside length of the space at the middle of its height, from the plank at the side of the stem to the lining on the timbers at the stern, and divide the length into the same number of equal parts into which the length of the tonnage deck is divided as above directed; measure (also at the middle of its height) the inside breadth of the space at each of the points of division, also the breadth of the stem and the breadth at the stern; number them successively 1, 2, 3, &c., commencing at the stem; multiply the second and all the other even numbered breadths by four, and the third and all the other odd numbered breadths (except the first and last) by two; to the sum of these products add the first and last breadths; multiply the whole sum by one third of the common interval between the breadths, and the result will give in superficial feet the mean horizontal area of such space; measure the mean height of such space, and multiply by it the mean horizontal area, and the product will be the cubical contents of the space; divide this product by one hundred, and the quotient shall be deemed to be the tonnage of such space, and shall be added to the other tonnage of the ship ascertained as aforesaid; and if the ship has more than three decks, the tonnage of each space between decks above the tonnage deck shall be severally ascertained in manner above described, and shall be added to the tonnage of the ship ascertained as aforesaid.

RULE II.

For ships not requiring registry with cargo on board.

22. SHIPS which, requiring to be measured for any purpose other than registry, have cargo on board, and ships which, requiring to be measured for the purpose of registry, cannot be measured by the rule above given, shall be measured by the following rule, herein-after called Rule II:

Length.

(1) Measure the length on the upper deck, from the outside of the outer plank at the stem to the aftside of the stern post, deducting therefrom the distance between the aftside of the stern post and the rabbet of the stern post at the point where the counter plank crosses it; measure also the greatest breadth of the ship, to the outside of the outer planking or wales, and then, having first marked on the outside of the ship on both sides thereof the height

Breadth.

Measurement of Tonnage.

of the upper deck at the ship's sides, girt the ship at the greatest breadth, in a direction perpendicular to the keel, from the height so marked on the outside of the ship on the one side to the height so marked on the other side, by passing a chain under the keel; to half the girth thus taken add half the main breadth; square the sum; multiply the result by the length of the ship taken as aforesaid; then multiply this product by the factor ·0018 (eighteen ten-thousandths) in the case of ships built of wood, and by ·0021 (twenty-one ten-thousandths) in the case of ships built of iron, and the product shall be deemed the register tonnage of the ship, subject to the additions and deductions herein-after mentioned.

Girting of the ship.

(2.) If there be a break, a poop, or other closed-in space on the upper deck, the tonnage of such space shall be ascertained by multiplying together the mean length, breadth, and depth of such space, and dividing the product by 100, and the quotient so obtained shall be deemed to be the tonnage of such space, and shall, subject to the deduction for a closed-in space appropriated to the crew, as mentioned in Rule I, be added to the tonnage of the ship ascertained as aforesaid.

Poop and other closed-in spaces on upper deck.

RULE III.

23. IN every ship propelled by steam or other power requiring engine room, an allowance shall be made for the space occupied by the propelling power, and the amount so allowed shall be deducted from the gross tonnage of the ship ascertained as aforesaid, and the remainder shall be deemed to be the register tonnage of such ship; and such deduction shall be estimated as follows; (that is to say,)

Allowance for engine room in steamers.

(*a.*) As regards ships propelled by paddle wheels in which the tonnage of the space solely occupied by and necessary for the proper working of the boilers and machinery is above twenty per cent. and under thirty per cent. of the gross tonnage of the ship, such deduction shall be thirty-seven one-hundredths of such gross tonnage; and in ships propelled by screws in which the tonnage of such space is above thirteen per cent. and under twenty per cent. of such gross tonnage, such deduction shall be thirty-two one-hundredths of such gross tonnage:

To be rateable in ordinary steamers.

(*b.*) As regards all other ships, the deduction shall, if the Commissioners of Customs and the owner both agree thereto, be estimated in the same manner; but either they or he may in their or his discretion require the space to be measured and the deduction estimated accordingly; and whenever such measurement is so required, the deduction shall consist of the tonnage of the space actually occupied by or required to be inclosed for the proper

May be measured where the space is unusually large or small.

Measurement of Tonnage.

working of the boilers and machinery, with the addition, in the case of ships propelled by paddle wheels, of one half, and, in the case of ships propelled by screws, of three fourths, of the tonnage of such space; and the measurement and use of such space shall be governed by the following rules; (that is to say,)

Mode of measurement.

(1) Measure the mean depth of the space from its crown to the ceiling at the limber strake; measure also three, or, if necessary, more than three breadths of the space at the middle of its depth, taking one of such measurements at each end, and another at the middle of the length; take the mean of such breadths; measure also the mean length of the space between the foremost and aftermost bulkheads or limits of its length, excluding such parts, if any, as are not actually occupied by or required for the proper working of the machinery; multiply together these three dimensions of length, breadth, and depth, and the product will be the cubical contents of the space below the crown; then find the cubical contents of the space or spaces, if any, above the crown aforesaid which are framed in for the machinery, or for the admission of light and air, by multiplying together the length, depth, and breadth thereof; add such contents to the cubical contents of the space below the crown; divide the sum by 100; and the result shall be deemed to be the tonnage of the said space:

In case of separate compartments.

(2) If in any ship in which the space aforesaid is to be measured the engines and boilers are fitted in separate compartments, the contents of each shall be measured severally in like manner, according to the above rules, and the sum of their several results shall be deemed to be the tonnage of the said space:

Shaft trunk of screw steamer.

(3) In the case of screw steamers in which the space aforesaid is to be measured, the contents of the shaft trunk shall be added to and deemed to form part of such space, and shall be ascertained by multiplying together the mean length, breadth and depth of the trunk, and dividing the product by 100:

Alteration of engine room.

(4) If in any ship in which the space aforesaid is to be measured any alteration be made in the length or capacity of such space, or if any cabins be fitted in such space, such ship shall be deemed to be a ship not registered until remeasurement:

Penalty for carrying goods in such space.

(5) If in any ship in which the space aforesaid is to be measured any goods or stores are stowed or carried in such space, the master and owner shall each be liable to a penalty not exceeding one hundred pounds.

Measurement of Tonnage.

RULE IV.

Open ships how measured.

24. IN ascertaining the tonnage of open ships the upper edge of the upper strake is to form the boundary line of measurement, and the depths shall be taken from an athwartship line extended from upper edge to upper edge of the said strake at each division of the length.

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Tonnage when once ascertained to be ever after deemed the tonnage.

26. WHENEVER the tonnage of any ship has been ascertained and registered in accordance with the provisions of this Act, the same shall thenceforth be deemed to be the tonnage of such ship, and be repeated in every subsequent registry thereof, unless any alteration is made in the form or capacity of such ship, or unless it is discovered that the tonnage of such ship has been erroneously computed; and in either of such cases such ship shall be remeasured, and her tonnage determined and registered according to the rules herein-before contained in that behalf.

Remeasurement of ships already registered may be made, but not to be compulsory.

27. THE rules for the measurement of tonnage herein contained shall not make it necessary to alter the present registered tonnage of any British ship registered before this Act comes into operation; but if the owner of any such ship desires to have the same remeasured according to such rules, he may apply to the Commissioners of Customs for the purpose, and such commissioners shall thereupon, and on payment of such reasonable charge for the expenses of remeasurement, not exceeding the sum of seven shillings and sixpence for each transverse section, as they may authorize, direct such remeasurement to be made, and such ship shall thereupon be remeasured according to such rules as aforesaid, or according to such of them as may be applicable; and the number denoting the register tonnage shall be altered accordingly.

Power to remeasure engine rooms improperly extended.

28. IF it appears to the Commissioners of Customs that in any steam ship measured before this Act comes into operation store rooms or coal bunkers have been introduced into or thrown across the engine room, so that the deduction from the tonnage on account of the engine room is larger than it ought to be, the said commissioners may, if they think fit, direct such engine room to be remeasured according to the rules in force before this Act comes into operation, excluding the space occupied by such store rooms or coal bunkers, or may, if the owners so desire, cause the ship to be remeasured according to the rules herein-before contained, and subject to the conditions contained in the last preceding section; and after remeasurement the said commissioners shall cause the ship to be registered anew, or the registry thereof to be altered, as the case may require.

Officers may be appointed and regulations made for

29. THE Commissioners of Customs may, with the sanction of the Treasury, appoint such persons to superintend the survey and admeasurement of ships as they think fit; and may, with the approval of the Board of Trade, make

Measurement of Tonnage.

measurement of ships.

such regulations for that purpose as may be necessary; and also, with the like approval, make such modifications and alterations as from time to time become necessary in the tonnage rules hereby prescribed, in order to the more accurate and uniform application thereof, and the effectual carrying out of the principle of admeasurement therein adopted.

Registry of British Ships.

Registry of British ships.

Registrars of British ships.

30. The following persons are required to register British ships, and shall be deemed registrars for the purposes of this Act; (that is to say,)

(1) At any port or other place in the United Kingdom or Isle of Man approved by the Commissioners of Customs for the registry of ships, the collector, comptroller, or other principal officer of Customs for the time being:

(2) In the Islands of Guernsey and Jersey, the principal officers of her Majesty's customs, together with the Governor, Lieutenant Governor, or other person administering the government of such islands respectively:

(3) In Malta, Gibraltar, and Heligoland, the Governor, Lieutenant Governor, or other person administering the government of such places respectively:

(4) At any port or place so approved as aforesaid within the limits of the charter but not under the government of the East India Company, and at which no custom house is established, the collector of duties, together with the Governor, Lieutenant Governor, or other person administering the government:

(5) At the ports of Calcutta, Madras, and Bombay, the master attendants, and at any other port or place so approved as aforesaid within the limits of the charter and under the government of the East India Company, the collector of duties, or any other person of six years standing in the civil service of the said Company who is appointed by any of the governments of the said Company to act for this purpose:

(6) At every other port or place so approved as aforesaid within her Majesty's dominions abroad, the collector, comptroller, or other principal officer of Customs or of navigation laws, or if there is no such officer resident at such port or place, the Governor, Lieutenant Governor, or other person administering the government of the possession in which such port or place is situate.

Substitution of Governor abroad for

31. The Governor, Lieutenant Governor, or other person administering the government in any British possession where any ship is registered under

Registry of British ships.

the authority of this Act shall, with regard to the performance of any act or thing relating to the registry of a ship or of any interest therein, be considered in all respects as occupying the place of the Commissioners of Customs; and any British consular officer shall, in any place where there is no justice of the peace, be authorized to take any declaration hereby required or permitted to be made in the presence of a justice of the peace.

Commissioners of Customs, and of consul for justice.

32. Every registrar shall keep a book, to be called "The Register Book," and enter therein the particulars herein-after required to be registered.

Registrar to keep register books.

33. The port or place at which any British ship is registered for the time being shall be considered her port of registry or the port to which she belongs.

Port of registry of British ship.

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35. Every application for the registry of a ship shall in the case of individuals be made by the person requiring to be registered as owner, or by some one or more of such persons if more than one, or by his or their duly authorized agent, and in the case of bodies corporate by their duly authorized agent; the authority of such agent, if appointed by individuals, to be testified by some writing under the hands of the appointors, and if appointed by a body corporate, by some instrument under the common seal of such body corporate.

Application for registry, by whom to be made.

36. Before registry, the ship shall be surveyed by a person duly appointed under this Act; and such surveyor shall grant a certificate in the form marked A in the schedule hereto, specifying her tonnage, build, and such other particulars descriptive of the identity of the ship as may from time to time be required by the Board of Trade; and such certificate shall be delivered to the registrar before registry.

Survey of ship.

37. The following rules shall be observed with respect to entries in the register book; (that is to say,)

Rules as to entries in register book.

(1) The property in a ship shall be divided into sixty-four shares:

(2) Subject to the provisions with respect to joint owners or owners by transmission herein-after contained, not more than thirty-two individuals shall be entitled to be registered at the same time as owners of any one ship; but this rule shall not affect the beneficial title of any number of persons, or of any company, represented by or claiming under or through any registered owner or joint owner:

(3) No person shall be entitled to be registered as owner of any fractional part of a share in a ship; but any number of persons, not exceeding five, may be registered as joint owners of a ship, or of a share or shares therein:

Registry of British ships.

(4) Joint owners shall be considered as constituting one person only as regards the foregoing rule relating to the number of persons entitled to be registered as owners, and shall not be entitled to dispose in severalty of any interest in any ship, or in any share or shares therein, in respect of which they are registered:

(5) A body corporate may be registered as owner by its corporate name.

Declaration of ownership by individual owner.

38. No person shall be entitled to be registered as owner of a ship, or any share therein, until he has made and subscribed a declaration, in the form marked B. in the schedule hereto, referring to the ship as described in the certificate of the surveyor, and containing the following particulars; (that is to say,)

(1) A statement of his qualification to be an owner of a share in a British ship:

(2) A statement of the time when and the place where such ship was built, or (if the ship is foreign-built, and the time and place of building not known,) a statement that she is foreign-built, and that he does not know the time or place of her building; and, in addition thereto, in the case of a foreign ship, a statement of her foreign name, or (in the case of a ship condemned) a statement of the time, place, and court at and by which she was condemned:

(3) A statement of the name of the master:

(4) A statement of the number of shares in such ship of which he is entitled to be registered as owner:

(5) A denial that, to the best of his knowledge and belief, any unqualified person or body of persons is entitled as owner to any legal or beneficial interest in such ship, or any share therein:

The above declaration of ownership shall be made and subscribed in the presence of the registrar, if the declarant reside within five miles of the custom house of the port of registry, but if beyond that distance, in the presence of any registrar, or of any justice of the peace.

Declaration of ownership by body corporate.

39. No body corporate shall be entitled to be registered as owner of a ship, or of any share therein, until the secretary or other duly appointed public officer of such body corporate has made and subscribed in the presence of the registrar of the port of registry a declaration, in the form marked C. in the schedule hereto, referring to the ship as described in the certificate of the surveyor, and containing the following particulars; (that is to say,)

(1.) A statement of such circumstances of the constitution and business of such body corporate as prove it to be qualified to own a British ship:

Registry of British ships.

(2) A statement of the time when and the place where such ship was built, or (if the ship is foreign-built, and the time and place of building unknown,) a statement that she is foreign-built, and that he does not know the time or place of her building; and, in addition thereto, in the case of a foreign ship, a statement of her foreign name, or (in the case of a ship condemned) a statement of the time, place, and court at and by which she was condemned:

(3) A statement of the name of the master:

(4) A statement of the number of shares in such ship of which such body corporate is owner:

(5) A denial that, to the best of his knowledge and belief, any unqualified person or body of persons is entitled as owner to any legal or beneficial interest in such ship, or any share therein.

Evidence to be produced on registry.

40. Upon the first registry of a ship there shall, in addition to the declaration of ownership, be produced the following evidence; (that is to say,)

(1) In the case of a British-built ship, a certificate (which the builder is hereby required to grant under his hand) containing a true account of the proper denomination and of the tonnage of such ship as estimated by him, and of the time when and of the place where such ship was built, together with the name of the party (if any) on whose account he has built the same, and, if any sale or sales have taken place, the bill or bills of sale under which the ship or share therein has become vested in the party requiring to be registered as owner:

(2) In the case of a foreign-built ship, the same evidence as in the case of a British-built ship, unless the person requiring to be registered as owner, or, in the case of a body corporate, the duly appointed officer, declares that the time or place of her building is unknown, or that the builder's certificate cannot be procured, in which case there shall be required only the bill or bills of sale under which the ship or share therein became vested in the party requiring to be registered as owner thereof:

(3) In the case of a ship condemned by any competent court, an official copy of the condemnation of such ship.

Penalty on builder for false certificate.

41. If any builder wilfully makes a false statement in any certificate hereby required to be granted by him, he shall for every such offence incur a penalty not exceeding one hundred pounds.

Particulars of entry in register book.

42. As soon as the foregoing requisites to the due registry of a ship have been complied with, the registrar shall enter in the register book the following particulars relating to such ship; (that is to say,)

Registry of British ships.

(1) The name of the ship, and of the port to which she belongs:

(2) The details as to her tonnage, build, and description comprised in the certificate herein-before directed to be given by the surveyor:

(3) The several particulars as to her origin stated in the declaration or declarations of ownership:

(4) The names and descriptions of her registered owner or owners, and if there is more than one such owner, the proportions in which they are interested in such ship.

No notice taken of trusts.

43. No notice of any trust, express, implied, or constructive, shall be entered in the register book, or receivable by the registrar; and, subject to any rights and powers appearing by the register book to be vested in any other party, the registered owner of any ship or share therein shall have power absolutely to dispose in manner herein-after mentioned of such ship or share, and to give effectual receipts for any money paid or advanced by way of consideration.

Certificate of Registry.

Certificate of registry.

Certificate of registry to be granted.

44. Upon the completion of the registry of any ship the registrar shall grant a certificate of registry, in the form marked D. in the schedule hereto, comprising the following particulars; (that is to say,)

(1) The name of the ship, and of the port to which she belongs:

(2) The details as to her tonnage, build, and description comprised in the certificate herein-before directed to be given by the surveyor:

(3) The name of her master:

(4) The several particulars as to her origin stated in the declaration or declarations of ownership:

(5) The names and descriptions of her registered owner or owners, and if there is more than one such owner, the proportions in which they are respectively interested, indorsed upon such certificate.

Change of owners to be indorsed on certificate of registry

45. Whenever any change takes place in the registered ownership of any ship, then, if such change occurs at a time when the ship is at her port of registry, the master shall forthwith deliver the certificate of registry to the registrar, and he shall indorse thereon a memorandum of such change; but if such change occurs during the absence of the ship from her port of registry, then upon her first return to such port the master shall deliver the certificate of registry to the registrar, and he shall indorse thereon a like memorandum of the change; or if she previously arrives at any port where there is a British registrar, such registrar shall, upon being advised by the registrar of her port of registry of the change having taken place, indorse a like memorandum thereof on the certificate of registry, and may for that purpose require

the certificate to be delivered to him, so that the ship be not thereby detained; and any master who fails to deliver to the registrar the certificate of registry, as herein-before required, shall incur a penalty not exceeding one hundred pounds.

Certificate of registry.

46. WHENEVER the master of any British registered ship is changed, the following persons, that is to say, if such change is made in consequence of the sentence of any naval court, the presiding officer of such court, but if the change takes place from any other cause, the registrar, or, if there is no registrar, the British consular officer resident at the port where such change takes place, shall indorse on the certificate of registry a memorandum of such change, and subscribe his name to such indorsement, and forthwith report the change of master to the Commissioners of Customs in London; and the officers of Customs at any port situate within her Majesty's dominions may refuse to admit any person to do any act at such port as master of any British ship, unless his name is inserted in or indorsed upon the certificate of registry of such ship as the last appointed master thereof.

Change of master to be indorsed on certificate of registry.

47. THE registrar may, with the sanction of the Commissioners of Customs, upon the delivery up to him of the former certificate of registry, grant a new certificate in the place of the one so delivered up.

Power to grant new certificate.

48. IN the event of the certificate of registry of any ship being mislaid, lost, or destroyed, if such event occurs at any port in the United Kingdom, the ship being registered in the United Kingdom, or at any port in any British possession, the ship being registered in the same British possession, then the registrar of her port of registry shall grant a new certificate of registry in lieu of and as a substitute for her original certificate of registry; but if such event occurs elsewhere, the master or some other person having knowledge of the circumstances shall make a declaration before the registrar of any port having a British registrar at which such ship is at the time or first arrives after such mislaying, loss, or destruction; and such declaration shall state the facts of the case, and the names and descriptions of the registered owners of such ship, to the best of the declarant's knowledge and belief; and the registrar shall thereupon grant a provisional certificate as near to the form appointed by this Act as circumstances permit, and shall insert therein a statement of the circumstances under which such provisional certificate is granted.

Provision in case of loss of certificate.

49. EVERY such provisional certificate shall within ten days after the first subsequent arrival of the ship at her port of discharge in the United Kingdom, if registered in the United Kingdom, or if registered elsewhere, at her port of discharge in the British possession within which her port of registry is situate, be delivered up to the registrar thereof, who shall thereupon grant

Provisional certificate to be delivered up.

Certificate of registry.

a new one, as near to the form appointed by this Act as circumstances permit; and if the master neglects to deliver up such certificate within such time, he shall incur a penalty not exceeding fifty pounds.

Custody of certificate.

50. THE certificate of registry shall be used only for the lawful navigation of the ship, and shall not be subject to detention by reason of any title, lien, charge, or interest whatsoever which any owner, mortgagee, or other person may have or claim to have on or in the ship described in such certificate; and if any person whatever, whether interested or not in the ship, refuses on request to deliver up such certificate, when in his possession or under his control, to the person for the time being entitled to the custody thereof for the purposes of such lawful navigation as aforesaid, or to any registrar, officer of the customs, or other person legally entitled to require such delivery, it shall be lawful for any justice, by warrant under his hand and seal, or for any court capable of taking cognizance of such matter, to cause the person so refusing to appear before him and to be examined touching such refusal; and unless it is proved to the satisfaction of such justice or court that there was reasonable cause for such refusal, the offender shall incur a penalty not exceeding one hundred pounds; but if it is made to appear to such justice or court that the certificate is lost, the party complained of shall be discharged, and such justice or court shall thereupon certify that the certificate of registry is lost.

Delivery of certificate may be required.

Penalty for detention.

Mode of proceeding if detaining party abscond.

51. IF the person charged with such detainer or refusal is proved to have absconded, so that the warrant of the justice or process of the court cannot be served upon him, or if he persists in his refusal to deliver the certificate, such justice or court shall certify the fact, and the same proceedings may then be taken as in the case of a certificate of registry mislaid, lost, or destroyed, or as near thereto as circumstances permit.

Penalty for using improper certificate.

52. IF the master or owner of any ship uses or attempts to use for the navigation of such ship a certificate of registry not legally granted in respect of such ship, he shall be guilty of a misdemeanor, and it shall be lawful for any commissioned officer on full pay in the military or naval service of her Majesty, or any British officer of Customs, or any British consular officer, to seize and detain such ship, and to bring her for adjudication before the High Court of Admiralty in England or Ireland, or any court having Admiralty jurisdiction in her Majesty's dominions; and if such court is of opinion that such use or attempt at use has taken place, it shall pronounce such ship, with her tackle, apparel, and furniture, to be forfeited to her Majesty, and may award such portion of the proceeds arising from the sale of such ship as it may think just to the officer so bringing in the same for adjudication.

Certificate of registry.

Certificate of ship lost or ceasing to be British to be delivered up.

53. If any registered ship is either actually or constructively lost, taken by the enemy, burnt, or broken up, or if by reason of a transfer to any persons not qualified to be owners of British ships, or of any other matter or thing, any such ship as aforesaid ceases to be a British ship, every person who at the time of the occurrence of any of the aforesaid events owns such ship or any share therein shall, immediately upon obtaining knowledge of any such occurrence, if no notice thereof has already been given to the registrar at the port of registry of such ship, give such notice to him, and he shall make an entry thereof in his register book; and, except in cases where the certificate of registry is lost or destroyed, the master of every ship so circumstanced as aforesaid shall immediately, if such event occurs in port, but if the same occurs elsewhere, then within ten days after his arrival in port, deliver the certificate of registry of such ship to the registrar, or, if there be no registrar, to the British consular officer at such port, and such registrar, if he is not himself the registrar of her port of registry, or such British consular officer, shall forthwith forward the certificate so delivered to him to the registrar of the port of registry of the ship; and every owner and master who without reasonable cause makes default in obeying the provisions of this section shall for each offence incur a penalty not exceeding one hundred pounds.

Provisional certificate for ship becoming vested in British owners at foreign port.

54. If any ship becomes the property of persons qualified to be owners of British ships at any foreign port, the British consular officer resident at such port may grant the master of such ship, upon his application, a provisional certificate, stating—

The name of the ship;

The time and place of her purchase, and the names of her purchasers;

The name of her master;

The best particulars as to her tonnage, build, and description that he is able to obtain;

And he shall forward a copy of such certificate, at the first convenient opportunity, to the Commissioners of Customs in London: The certificate so granted shall possess the same force as a certificate of registry until the expiration of six months, or until such earlier time as the ship arrives at some port where there is a British registrar; but upon the expiration of such period, or upon arrival at such port, shall be void to all intents.

Transfers and Transmissions.

Transfers and transmissions.

Transfer of ships, or shares therein.

55. A registered ship, or any share therein, when disposed of to persons qualified to be owners of British ships, shall be transferred by bill of sale; and such bill of sale shall contain such description of the ship as is contained in the certificate of the surveyor, or such other description as may be sufficient to

Transfers and transmissions.

identify the ship to the satisfaction of the registrar, and shall be according to the form marked E. in the schedule hereto, or as near thereto as circumstances permit, and shall be executed by the transferrer in the presence of and be attested by one or more witnesses.

Declaration to be made by transferree.

56. No individual shall be entitled to be registered as transferree of a ship, or any share therein, until he has made a declaration in the form marked F. in the schedule hereto, stating his qualification to be registered as owner of a share in a British ship, and containing a denial similar to the denial herein-before required to be contained in a declaration of ownership by an original owner; and no body corporate shall be entitled to be registered as transferree of a ship, or any share therein, until the secretary or other duly appointed public officer of such body corporate has made a declaration in the form marked G. in the schedule hereto, stating the name of such body corporate, and such circumstances of its constitution and business as may prove it to be qualified to own a British ship, and containing a denial similar to the denial herein-before required to be contained in a declaration of ownership made on behalf of a body corporate: In the case of an individual the above declaration shall be made, if he reside within five miles of the custom house of the port of registry, in the presence of the registrar, but if beyond that distance, in the presence of any registrar, or of any justice of the peace; in the case of a body corporate the declaration shall be made in the presence of the registrar of the port of registry.

Registration of transfer.

57. Every bill of sale for the transfer of any registered ship, or of any share therein, when duly executed, shall be produced to the registrar of the port at which the ship is registered, together with the declaration herein-before required to be made by a transferree; and the registrar shall thereupon enter in the register book the name of the transferree as owner of the ship or share comprised in such bill of sale, and shall indorse on the bill of sale the fact of such entry having been made, with the date and hour thereof; and all bills of sale of any ship or shares in a ship shall be entered in the register book in the order of their production to the registrar.

Transmission of shares by death, bankruptcy, or marriage.

58. If the property in any ship, or in any share therein, becomes transmitted in consequence of the death or bankruptcy or insolvency of any registered owner, or in consequence of the marriage of any female registered owner, or by any lawful means other than by a transfer according to the provisions of this Act, such transmission shall be authenticated by a declaration of the person to whom such property has been transmitted, made in the form marked H. in the schedule hereto, and containing the several statements herein-before required to be contained in the declaration of a transferree, or as near thereto as circumstances permit, and, in addition, a statement describing

the manner in which and the party to whom such property has been transmitted; and such declaration shall be made and subscribed, if the declarant resides at or within five miles of the custom house of the port of registry, in the presence of the registrar, but if beyond that distance, in the presence of any registrar, or of any justice of the peace.

Transfers and transmissions.

59. If such transmission has taken place by virtue of the bankruptcy or insolvency of any registered owner, the said declaration shall be accompanied by such evidence as may for the time being be receivable in courts of justice as proof of the title of parties claiming under any bankruptcy or insolvency; and if such transmission has taken place by virtue of the marriage of a female owner, the said declaration shall be accompanied by a copy of the register of such marriage or other legal evidence of the celebration thereof, and shall declare the identity of the said female owner; and if such transmission has taken place by virtue of any testamentary instrument, or by intestacy, then in England, Wales, and Ireland the said declaration shall be accompanied by the probate of the will or the letters of administration or an official extract therefrom, and in Scotland or in any British possession by the will or any copy thereof that may be evidence by the laws of Scotland or of such possession, or by letters of administration or any copy thereof, or by such other document as may by the laws of Scotland or of such possession be receivable in the courts of judicature thereof as proof of the person entitled upon an intestacy.

Proof of transmission by bankruptcy, marriage, will, or on intestacy.

60. The registrar, upon the receipt of such declaration so accompanied as aforesaid, shall enter the name of the person or persons entitled under such transmission in the register book as owner or owners of the ship or share therein in respect of which such transmission has taken place; and such persons, if more than one, shall, however numerous, be considered as one person only as regards the rule herein-before contained relating to the number of persons entitled to be registered as owners.

Registration of transmitted share.

61. Of the documents hereby required to be produced to the registrar he shall retain in his possession the following; that is to say, the surveyor's certificate, the builder's certificate, the copy of the condemnation, and all declarations of ownership.

Registrar to retain certain evidence.

62. Whenever any property in a ship or share in a ship becomes vested by transmission on the death of any owner, or on the marriage of any female owner, in any person not qualified to be the owner of British ships, it shall be lawful, if such ship is registered in England or Ireland for the Court of Chancery, if in Scotland for the Court of Session, or if in any British possession for any court possessing the principal civil jurisdiction within such possession, upon an application made by or on behalf of such unqualified person, to order

Unqualified owner entitled by transmission may apply to court for sale of ship.

Transfers and transmissions.

a sale to be made of the property so transmitted, and to direct the proceeds of such sale, after deducting the expenses thereof, to be paid to the person entitled under such transmission, or otherwise as the court may direct; and it shall be in the discretion of any such court as aforesaid to make or refuse any such order for sale, and to annex thereto any terms or conditions, and to require any evidence in support of such application it may think fit, and generally to act in the premises in such manner as the justice of the case requires.

Order to be made by court.

63. EVERY order for a sale made by such court as aforesaid shall contain a declaration vesting the right to transfer the ship or share so to be sold in some person or persons named by the court, and such nominee or nominees shall thereupon be entitled to transfer such ship or share in the same manner, and to the same extent, as if he or they were the registered owner or owners of the same; and every registrar shall obey the requisition of such nominee or nominees as aforesaid in respect of any transfer to the same extent as he would be compellable to obey the requisition of any registered owner or owners of such ship or share.

Limit of time for application.

64. EVERY such application as aforesaid for sale shall be made within four weeks after the occurrence of the event on which such transmission has taken place, or within such further time as such court as aforesaid may allow, such time not in any case to exceed the space of one year from the date of such occurrence as aforesaid; and in the event of no such application being made within such period as aforesaid, or of such court refusing to accede thereto, the ship or share so transmitted shall thereupon be forfeited in manner herein-after directed with respect to interests acquired by unqualified owners in ships using a British flag and assuming the British character.

Power of courts to prohibit transfers.

65. IT shall be lawful in England or Ireland for the Court of Chancery, in Scotland for the Court of Session, in any British possession for any court possessing the principal civil jurisdiction within such possession, without prejudice to the exercise of any other power such court may possess, upon the summary application of any interested person made either by petition or otherwise, and either ex parte or upon service of notice on any other person, as the court may direct, to issue an order prohibiting for a time to be named in such order any dealing with such ship or share; and it shall be in the discretion of such court to make or refuse any such order, and to annex thereto any terms or conditions it may think fit, and to discharge such order when granted, with or without costs, and generally to act in the premises in such manner as the justice of the case requires; and every registrar, without being made a party to the proceedings, upon being served with such order, or an official copy thereof, shall obey the same.

Mortgages.

Mortgage of ships and shares therein.

66. A REGISTERED ship, or any share therein, may be made a security for a loan or other valuable consideration; and the instrument creating such security, herein-after termed a "mortgage," shall be in the form marked I. in the schedule hereto, or as near thereto as circumstances permit; and on the production of such instrument the registrar of the port at which the ship is registered shall record the same in the register book.

Mortgages to be registered in order of time of production.

67. EVERY such mortgage shall be recorded by the registrar in the order of time in which the same is produced to him for that purpose; and the registrar shall, by memorandum under his hand, notify on the instrument of mortgage that the same has been recorded by him, stating the date and hour of such record.

Entry of discharge of mortgage.

68. WHENEVER any registered mortgage has been discharged, the registrar shall, on the production of the mortgage deed, with a receipt for the mortgage money indorsed thereon, duly signed and attested, make an entry in the register book to the effect that such mortgage has been discharged, and upon such entry being made the estate, if any, which passed to the mortgagee shall vest in the same person or persons in whom the same would, having regard to intervening acts and circumstances, if any, have vested if no such mortgage had ever been made.

Priority of mortgages.

69. IF there is more than one mortgage registered of the same ship or share therein, the mortgagees shall, notwithstanding any express, implied, or constructive notice, be entitled in priority one over the other according to the date at which each instrument is recorded in the register books, and not according to the date of each instrument itself.

Mortgagee not to be deemed

70. A MORTGAGEE shall not by reason of his mortgage be deemed to be the owner of a ship, or any share therein, nor shall the mortgagor be deemed to have ceased to be owner of such mortgaged ship or share, except in so far as may be necessary for making such ship or share available as a security for the mortgage debt.

Mortgagee to have power of sale.

71. EVERY registered mortgagee shall have power absolutely to dispose of the ship or share in respect of which he is registered, and to give effectual receipts for the purchase money; but if there are more persons than one registered as mortgagees of the same ship or share, no subsequent mortgagee shall, except under the order of some court capable of taking cognizance of such matters, sell such ship or share without the concurrence of every prior mortgagee.

Rights of mortgagee not affected by

72. No registered mortgage of any ship, or of any share therein, shall be affected by any act of bankruptcy committed by the mortgagor after the date

Mortgages.

any act of bankruptcy of mortgagor.

of the record of such mortgage, notwithstanding such mortgagor at the time of his becoming bankrupt may have in his possession and disposition and be reputed owner of such ship or share thereof; and such mortgage shall be preferred to any right, claim, or interest in such ship, or any share thereof, which may belong to the assignees of such bankrupt.

Transfer of mortgages.

73. A REGISTERED mortgage of any ship or share in a ship may be transferred to any person; and the instrument creating such transfer shall be in the form marked K. in the schedule hereto; and on the production of such instrument the registrar shall enter in the register book the name of the transferree as mortgagee of the ship or shares therein mentioned, and shall by memorandum under his hand record on the instrument of transfer that the same has been recorded by him, stating the date and hour of such record.

Transmission of interest of mortgagee by death, bankruptcy, or marriage.

74. IF the interest of any mortgagee in any ship, or in any share therein, becomes transmitted in consequence of death, bankruptcy, or insolvency, or in consequence of the marriage of any female mortgagee, or by any lawful means other than by a transfer according to the provisions of this Act, such transmission shall be authenticated by a declaration of the person to whom such interest has been transmitted, made in the form marked L. in the schedule hereto, and containing a statement describing the manner in which and the party to whom such property has been transmitted; and such declaration shall be made and subscribed, if the declarant resides at or within five miles of the custom house of the port of registry, in the presence of the registrar, but if beyond that distance, in the presence of any registrar, or of any justice of the peace, and shall be accompanied by such evidence as is herein-before required to authenticate a corresponding transmission of property from one registered owner to another.

Entry of transmitted mortgage.

75. THE registrar, upon the receipt of such declaration and the production of such evidence as aforesaid, shall enter the name of the person or persons entitled under such transmission in the register book as mortgagee or mortgagees of the ship or share in respect of which such transmission has taken place.

Certificates of Mortgage and Sale.

Certificates of mortgage and sale.

Powers of mortgage and sale may be conferred by certificate.

76. ANY registered owner, if desirous of disposing by way of mortgage or sale of the ship or share in respect of which he is registered at any place out of the country or possession in which the port of registry of such ship is situate, may apply to the registrar, who shall thereupon enable him to do so by granting such certificates as are herein-after mentioned, to be called respectively certificates of mortgage or certificates of sale, according as they purport to give a power to mortgage or a power to sell.

Certificates of mortgage and sale.

Requisites for certificates of mortgage and sale.

77. PREVIOUSLY to any certificate of mortgage or sale being granted the applicant shall state to the registrar, to be by him entered in the register book, the following particulars; (that is to say,)

(1) The names of the persons by whom the power mentioned in such certificate is to be exercised, and in the case of a mortgage the maximum amount of charge to be created, if it is intended to fix any such maximum, and in the case of a sale the minimum price at which a sale is to be made, if it is intended to fix any such minimum:

(2) The specific place or places where such power is to be exercised, or if no place be specified, then that it may be exercised anywhere, subject to the provisions herein-after contained:

(3) The limit of time within which such power may be exercised.

Restrictions on certificates of mortgage and sale.

78. No certificate of mortgage or sale shall be granted so as to authorize any mortgage or sale to be made—

At any place within the United Kingdom, if the port of registry of the ship be situate in the United Kingdom; or at any place within the same British possession, if the port of registry is situate within a British possession; or

By any person not named in the certificate.

Forms of certificates of mortgage and sale.

79. CERTIFICATES of mortgage and sale shall be in the forms marked respectively M. and N. in the schedule hereto, and shall contain a statement of the several particulars herein-before directed to be entered in the register book, and in addition thereto an enumeration of any registered mortgages or certificates of mortgage or sale affecting the ships or shares in respect of which such certificates are given.

Rules as to certificates of mortgage.

80. THE following rules shall be observed as to certificates of mortgage; (that is to say,)

(1) The power shall be exercised in conformity with the directions contained in the certificate:

(2) A record of every mortgage made thereunder shall be indorsed thereon by a registrar or British consular officer:

(3) No mortgage bonâ fide made thereunder shall be impeached by reason of the person by whom the power was given dying before the making of such mortgage:

(4) Whenever the certificate contains a specification of the place or places at which, and a limit of time not exceeding twelve months within which, the power is to be exercised, no mortgage bonâ fide made to a mortgagee without notice shall be impeached by reason of the bankruptcy or insolvency of the person by whom the power was given:

Certificates of mortgage and sale.

(5) Every mortgage which is so registered as aforesaid on the certificate shall have priority over all mortgages of the same ship or share created subsequently to the date of the entry of the certificate in the register book; and if there be more mortgages than one so indorsed the respective mortgagees claiming thereunder shall, notwithstanding any express, implied, or constructive notice, be entitled one before the other according to the date at which a record of each instrument is indorsed on the certificate, and not according to the date of the instrument creating the mortgage:

(6) Subject to the foregoing rules, every mortgagee whose mortgage is registered on the certificate shall have the same rights and powers and be subject to the same liabilities as he would have had and been subject to if his mortgage had been registered in the register book instead of on the certificate:

(7) The discharge of any mortgage so registered on the certificate may be indorsed thereon by any registrar or British consular officer, upon the production of such evidence as is hereby required to be produced to the registrar on the entry of the discharge of a mortgage in the register book; and upon such indorsement being made the estate, if any, which passed to the mortgagee shall vest in the same person or persons in whom the same would, having regard to intervening acts and circumstances, if any, have vested if no such mortgage had been made:

(8) Upon the delivery of any certificate of mortgage to the registrar by whom it was granted he shall, after recording in the register book in such manner as to preserve its priority any unsatisfied mortgage registered thereon, cancel such certificate, and enter the fact of such cancellation in the register book; and every certificate so cancelled shall be void to all intents.

Rules as to certificates of sale.

81. THE following rules shall be observed as to certificates of sale; (that is to say,)

(1) No such certificate shall be granted except for the sale of an entire ship:

(2) The power shall be exercised in conformity with the directions contained in the certificate:

(3) No sale bonâ fide made to a purchaser for valuable consideration shall be impeached by reason of the person by whom the power was given dying before the making of such sale:

(4) Whenever the certificate contains a specification of the place or places at which, and a limit of time not exceeding twelve months within

Certificates of mortgage and sale.

which, the power is to be exercised, no sale bonâ fide made to a purchaser for valuable consideration without notice shall be impeached by reason of the bankruptcy or insolvency of the person by whom the power was given:

(5) Any transfer made to a person qualified to be the owner of British ships shall be by bill of sale in the form herein-before mentioned, or as near thereto as circumstances permit:

(6) If the ship is sold to a party qualified to hold British ships, the ship shall be registered anew; but notice of all mortgages enumerated on the certificate of sale shall be entered in the register book:

(7) Previously to such registry anew there shall be produced to the registrar required to make the same the bill of sale by which the ship is transferred, the certificate of sale, and the certificate of registry of such ship:

(8) Such last-mentioned registrar shall retain the certificates of sale and registry, and after having indorsed on both of such instruments an entry of the fact of a sale having taken place, shall forward the said certificates to the registrar of the port appearing on such certificates to be the former port of registry of the ship, and such last-mentioned registrar shall thereupon make a memorandum of the sale in his register book, and the registry of the ship in such book shall be considered as closed, except as far as relates to any unsatisfied mortgages or existing certificates of mortgage entered therein:

(9) On such registry anew the description of the ship contained in her original certificate of registry may be transferred to the new register book, without her being re-surveyed, and the declaration to be made by the purchaser shall be the same as would be required to be made by an ordinary transferree:

(10) If the ship is sold to a party not qualified to be the owner of a British ship, the bill of sale by which the ship is transferred, the certificate of sale, and the certificate of registry, shall be produced to some registrar or consular officer, who shall retain the certificates of sale and registry, and, having indorsed thereon the fact of such ship having been sold to persons not qualified to be owners of British ships, shall forward such certificates to the registrar of the port appearing on the certificate of registry to be the port of registry of such ship; and such last-mentioned registrar shall thereupon make a memorandum of the sale in his register book, and the registry of the ship in such book shall be considered as closed,

Certificates of mortgage and sale.

except so far as it relates to any unsatisfied mortgages or existing certificates of mortgage entered therein:

(11) If upon a sale being made to an unqualified person default is made in the production of such certificates as are mentioned in the last rule, such unqualified person shall be considered by British law as having acquired no title to or interest in the ship; and further, the party upon whose application such certificate was granted, and the persons exercising the power, shall each incur a penalty not exceeding one hundred pounds:

(12) If no sale is made in conformity with the certificate of sale, such certificate shall be delivered to the registrar by whom the same was granted; and such registrar shall thereupon cancel it, and enter the fact of such cancellation in the register book; and every certificate so cancelled shall be void to all intents.

Power of Commissioners of Customs in case of loss of certificate of mortgage or sale.

82. Upon proof at any time to the satisfaction of the Commissioners of Customs that any certificate of mortgage or sale is lost or so obliterated as to be useless, and that the powers thereby given have never been exercised, or if they have been exercised, then upon proof of the several matters and things that have been done thereunder, it shall be lawful for the registrar, with the sanction of the said commissioners, as circumstances may require, either to issue a new certificate, or to direct such entries to be made in the register book, or such other matter or thing to be done, as might have been made or done if no such loss or obliteration had taken place.

Revocation of certificates of mortgage and sale.

83. The registered owner for the time being of any ship or share therein in respect of which a certificate of mortgage or sale has been granted, specifying the place or places where the power thereby given is to be exercised, may, by an instrument under his hand made in the form O. in the schedule hereto, or as near thereto as circumstances permit, authorize the registrar by whom such certificate was granted to give notice to the registrar or consular officer, registrars or consular officers, at such place or places, that such certificate is revoked; and notice shall be given accordingly; and all registrars or consular officers receiving such notice shall record the same, and shall exhibit the same to all persons who may apply to them for the purpose of effecting or obtaining a mortgage or transfer under the said certificate of mortgage or sale; and after such notice has been so recorded the said certificate shall, so far as concerns any mortgage or sale to be thereafter made at such place, be deemed to be revoked and of no effect; and every registrar or consular officer recording any such notice shall thereupon state to the registrar by whom the certificate was granted whether any previous exercise of the power to which such certificate refers has taken place.

Registry anew, and Transfer of Registry.

Registry anew and transfer of registry.

Alteration in ship to be registered.

84. WHENEVER any registered ship is so altered as not to correspond with the particulars relating to her tonnage or description contained in the register book, then, if such alteration is made at a port where there is a registrar, the registrar of such port, but if made elsewhere, the registrar of the first port having a registrar at which the ship arrives after her alteration, shall, on application made to him, and on the receipt of a certificate from the proper surveyor, specifying the nature of such alteration, either retain the old certificate of registry and grant a new certificate of registry containing a description of the ship as altered, or indorse on the existing certificate a memorandum of such alteration, and subscribe his name to such indorsement; and the registrar to whom such application as aforesaid is made, if he is the registrar of the port of registry of the ship, shall himself enter in his register book the particulars of the alteration so made, and the fact of such new certificate having been granted or indorsement having been made on the existing certificate; but if he is not such last-mentioned registrar, he shall forthwith report such particulars and facts as aforesaid, accompanied by the old certificate of registry in cases where a new one has been granted, to the registrar of the port of registry of the ship, who shall retain such old certificate (if any), and enter such particulars and facts in his register book accordingly.

On alteration registry anew may be required.

85. WHEN the registrar to whom application is made in respect of any such alteration as aforesaid is the registrar of the port of registry, he may, if he thinks fit, instead of registering such alteration, require such ship to be registered anew in manner herein-before directed on the first registry of a ship; and if he is not such registrar as lastly herein-before mentioned, he may nevertheless require such ship to be registered anew, but he shall in such last-mentioned case grant a provisional certificate or make a provisional indorsement of the alteration made in manner herein-before directed in cases where no registry anew is required, taking care to add to such certificate or indorsement a statement that the same is made provisionally, and to insert in his report to the registrar of the port of registry of the ship a like statement.

Grant of provisional certificate in respect of alteration.

86. EVERY such provisional certificate, or certificate provisionally indorsed, shall within ten days after the first subsequent arrival of the ship at her port of discharge in the United Kingdom, if registered in the United Kingdom, or, if registered elsewhere, at her port of discharge in the British possession within which her port of registry is situate, be delivered up to the registrar thereof, who shall thereupon cause such ship to be registered anew, in the same manner in all respects as herein-before required on the first registry of any ship.

Registry anew, and transfer of registry.

Consequence of omission to register anew.

87. On failure of such registry anew of any ship or registry of alteration of any ship so altered as aforesaid, such ship shall be deemed not duly registered, and shall no longer be recognized as a British ship.

On change of owners, registry anew may be granted, if required.

88. If upon any change of ownership in any ship the owner or owners desire to have such ship registered anew, although such registry anew is not required by this Act, it shall be lawful for the registrar of the port at which such ship is already registered, on the delivery up to him of the existing certificate of registry, and on the other requisites to registry, or such of them as the registrar thinks material, being duly complied with, to make such registry anew, and grant a certificate thereof.

Registry may be transferred from port to port.

89. The registry of any ship may be transferred from one port to another upon the application of all parties appearing on the register to be interested in such ship, whether as owners or mortgagees, such application to be expressed by a declaration in writing, made and subscribed, if the party so required to make and subscribe the same resides at or within five miles of the custom house of the port from which such ship is to be transferred, in the presence of the registrar of such port, but if beyond that distance, in the presence of any registrar, or of any justice of the peace.

Manner of transfer of registry.

90. Upon such application being made as is herein-before mentioned, and upon the delivery to him of the certificate of registry, the registrar of the port at which such ship is already registered shall transmit to the registrar of the port at which such ship is intended to be registered notice of such application having been made to him, together with a true copy of all particulars relating to such ship, and the names of all the parties appearing by his book to be interested as owners or mortgagees in such ship; and such last-mentioned registrar shall upon the receipt of such notice enter all such particulars and names in his book of registry, and grant a fresh certificate of registry, and thenceforth such ship shall be considered as registered at and belonging to such last-mentioned port, and the name of such last-mentioned port shall be substituted on the stern of such ship in lieu of the name of the port previously appearing thereon.

Transfer of registry not to affect rights of owners.

91. The transfer of the registry of any ship in manner aforesaid shall not in any way affect the rights of the several persons interested either as owners or mortgagees in such ship, but such rights shall in all respects be maintained and continue in the same manner as if no such transfer had been effected.

Registry, miscellaneous.

Registry, Miscellaneous.

Inspection of register books.

92. Every person may, upon payment of a fee to be fixed by the Commissioners of Customs, not exceeding one shilling, have access to the register

book for the purpose of inspection, at any reasonable time during the hours of official attendance of the registrar.

Registry, miscellaneous.

Indemnity to registrar.

93. No registrar shall be liable to damages or otherwise for any loss accruing to any person by reason of any act done or default made by him in his character of registrar, unless the same has happened through his neglect or wilful act.

Returns to be made by registrars to Commissioners of Customs.

94. Every registrar in the United Kingdom shall at the expiration of every month, and every other registrar shall without delay, or at such stated times as may be fixed by the Commissioners of Customs, transmit to the Custom House in London a full return in such form as they may direct of all registries, transfers, transmissions, mortgages, and other dealings with ships, which have been registered by or communicated to them in their character of registrars, and the names of the persons who have been concerned in the same, and such other particulars as may be directed by the said commissioners.

Application of fees.

95. All fees authorized to be taken under the second part of this Act shall if taken in any part of the United Kingdom be applied in payment of the general expenses of carrying into effect the purposes of such second part, or otherwise as the Treasury may direct, but if taken elsewhere shall be disposed of in such way as the executive government of the British possession in which they are taken may direct.

Commissioners of Customs shall provide, and, with consent of Board of Trade, may alter forms, and issue instructions.

96. The Commissioners of Customs shall cause the several forms required or authorized to be used by the second part of this Act, and contained in the schedule hereto, to be supplied to all registrars within her Majesty's dominions, for distribution to the several persons requiring to use the same, either free of charge, or at such moderate prices as they may from time to time direct; and the said commissioners, with the consent of the Board of Trade, may from time to time make such alterations in the forms contained in the schedule hereto as it may deem requisite, but shall, before issuing any altered form, give such public notice thereof as may be necessary in order to prevent inconvenience; and the said commissioners may also, with such consent as aforesaid, for the purposes of carrying into effect the provisions contained in the second part of this Act, give such instructions as to the manner of making entries in the register book, as to the execution and attestation of powers of attorney, as to any evidence to be required for identifying any person, and generally as to any act or thing to be done in pursuance of the second part of this Act, as they may think fit.

Power to registrar to dispense with declarations

97. Whenever in any case in which under the second part of this Act any person is required to make a declaration on behalf of himself or of any body corporate, or any evidence is required to be produced to the registrar, it is

Registry, miscellaneous.

and other evidence.

shown to the satisfaction of the registrar that from any reasonable cause such person is unable to make the declaration, or that such evidence cannot be produced, it shall be lawful for the registrar, with the sanction of the Commissioners of Customs, and upon the production of such other evidence, and subject to such terms as they may think fit, to dispense with any such declaration or evidence.

Power for Commissioners or Governor in special cases to grant a pass to a ship not registered.

98. In cases where it appears to the Commisssioners of Customs, or to the Governor or other person administering the government of any British possession, that by reason of special circumstances it would be desirable that permission should be granted to any British ship to pass, without being previously registered, from one port or place in her Majesty's dominions to any other port or place within the same, it shall be lawful for such commissioners or governor or other person to grant a pass accordingly, and such pass shall for the time and within the limits therein mentioned have the same effect as a certificate of registry.

Provision for cases of infancy or other incapacity.

99. If any person interested in any ship or any share therein is, by reason of infancy, lunacy, or other inability, incapable of making any declaration or doing any thing required or permitted by this Act to be made or done by such incapable person in respect of registry, then the guardian or committee, if any, of such incapable person, or, if there be none, any person appointed by any court or judge possessing jurisdiction in respect of the property of incapable persons, upon the petition of any person on behalf of such incapable person, or of any other person interested in the making such declaration or doing such thing, may make such declaration, or a declaration as nearly corresponding thereto as circumstances permit, and do such thing, in the name and on behalf of such incapable person; and all acts done by such substitute shall be as effectual as if done by the person for whom he is substituted.

Liabilities of owners.

100. Whenever any person is beneficially interested, otherwise than by way of mortgage, in any ship or share therein registered in the name of some other person as owner, the person so interested shall, as well as the registered owner, be subject to all pecuniary penalties imposed by this or by any other Act on owners of ships or shares therein, so nevertheless that proceedings may be taken for the enforcement of any such pecuniary penalties against both or either of the aforesaid parties, with or without joining the other of them.

Forgery.

Forgery.

Punishment for forgery.

101. Any person who forges, assists in forging, or procures to be forged, fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any register book, certificate of surveyor, certificate of registry, declaration of ownership, bill of sale, instrument of mortgage, certificate of

mortgage or sale, or any entry or indorsement required by the second part of this Act to be made in or on any of the above documents, shall for every such offence be deemed to be guilty of felony. *Forgery.*

National Character.

National character.

National character of ship to be declared before clearance.

102. No officer of customs shall grant a clearance or transire for any ship until the master of such ship has declared to such officer the name of the nation to which he claims that she belongs, and such officer shall thereupon inscribe such name on the clearance or transire; and if any ship attempts to proceed to sea without such clearance or transire, any such officer may detain her until such declaration is made.

103. THE offences herein-after mentioned shall be punishable as follows; (that is to say,) Penalties:

(1) If any person uses the British flag and assumes the British national character on board any ship owned in whole or in part by any persons not entitled by law to own British ships, for the purpose of making such ship appear to be a British ship, such ship shall be forfeited to her Majesty, unless such assumption has been made for the purpose of escaping capture by an enemy or by a foreign ship of war in exercise of some belligerent right; and in any proceeding for enforcing any such forfeiture the burden of proving a title to use the British flag and assume the British national character shall lie upon the person using and assuming the same: *For unduly assuming a British character.*

(2) If the master or owner of any British ship does or permits to be done any matter or thing, or carries or permits to be carried any papers or documents, with intent to conceal the British character of such ship from any person entitled by British law to inquire into the same, or to assume a foreign character, or with intent to deceive any such person as lastly herein-before mentioned, such ship shall be forfeited to her Majesty; and the master, if he commits or is privy to the commission of the offence, shall be guilty of a misdemeanor: *For concealment of British or assumption of foreign character.*

(3) If any unqualified person, except in the case of such transmitted interests as are herein-before mentioned, acquires as owner any interest, either legal or beneficial, in a ship using a British flag and assuming the British character, such interest shall be forfeited to her Majesty: *For acquiring ownership, if unqualified.*

(4) If any person, on behalf of himself or any other person or body of persons, wilfully makes a false declaration touching the qualification of himself or such other person or body of persons to own *For false declaration of ownership.*

National character.

British ships or any shares therein, the declarant shall be guilty of a misdemeanor; and the ship or share in respect of which such declaration is made, if the same has not been forfeited under the foregoing provision, shall, to the extent of the interest therein of the person making the declaration, and, unless it is shown that he had no authority to make the same, of the parties on behalf of whom such declaration is made, be forfeited to her Majesty:

And in order that the above provisions as to forfeitures may be carried into effect, it shall be lawful for any commissioned officer on full pay in the military or naval service of her Majesty, or any British officer of customs, or any British consular officer, to seize and detain any ship which has, either wholly or as to any share therein, become subject to forfeiture as aforesaid, and to bring her for adjudication before the High Court of Admiralty in England or Ireland, or any court having Admiralty jurisdiction in her Majesty's dominions; and such court may thereupon make such order in the case as it may think fit, and may award to the officer bringing in the same for adjudication such portion of the proceeds of the sale of any forfeited ship or share as it may think right.

Officer not liable for any seizure made on reasonable grounds.

104. No such officer as aforesaid shall be responsible, either civilly or criminally, to any person whomsoever, in respect of the seizure or detention of any ship that has been seized or detained by him in pursuance of the provisions herein contained, notwithstanding that such ship is not brought in for adjudication, or, if so brought in, is declared not to be liable to forfeiture, if it is shown to the satisfaction of the judge or court before whom any trial relating to such ship or such seizure or detention is held that there were reasonable grounds for such seizure or detention; but if no such grounds are shown, such judge or court may award payment of costs and damages to any party aggrieved, and make such other order in the premises as it thinks just.

Penalty for carrying improper colours.

105. If any colours usually worn by her Majesty's ships, or any colours resembling those of her Majesty, or any distinctive national colours, except the red ensign usually worn by merchant ships, or except the union jack with a white border, or if the pendant usually carried by her Majesty's ships, or any pendant in anywise resembling such pendant, are or is hoisted on board any ship or boat belonging to any subject of her Majesty without warrant for so doing from her Majesty or from the Admiralty, the master of such ship or boat, or the owner thereof, if on board the same, and every other person hoisting or joining or assisting in hoisting the same, shall for every such offence incur a penalty not exceeding five hundred pounds; and it shall be lawful for

any officer on full pay in the military or naval service of her Majesty, or any British officer of the Customs, or any British consular officer, to board any such ship or boat, and to take away any such jack, colours, or pendant; and such jack, colours, or pendant shall be forfeited to her Majesty.

National character.

106. WHENEVER it is declared by this Act that a ship belonging to any person or body corporate qualified according to this Act to be owners of British ships shall not be recognized as a British ship, such ship shall not be entitled to any benefits, privileges, advantages, or protection usually enjoyed by British ships, and shall not be entitled to use the British flag or assume the British national character; but, so far as regards the payment of dues, the liability to pains and penalties, and the punishment of offences committed on board such ship or by any persons belonging to her, such ship shall be dealt with in the same manner in all respects as if she were a recognized British ship.

Effect of declaration in the Act that a ship shall not be recognized as a British ship

Evidence.

Evidence.

107. EVERY register of or declaration made in pursuance of the second part of this Act in respect of any British ship may be proved in any court of justice, or before any person having by law or by consent of parties authority to receive evidence, either by the production of the original or by an examined copy thereof, or by a copy thereof purporting to be certified under the hand of the registrar or other person having the charge of the original; which certified copies he is hereby required to furnish to any person applying at a reasonable time for the same, upon payment of one shilling for each such certified copy; and every such register or copy of a register, and also every certificate of registry of any British ship, purporting to be signed by the registrar or other proper officer, shall be received in evidence in any court of justice, or before any person having by law or by consent of parties authority to receive evidence, as primâ facie proof of all the matters contained or recited in such register, when the register or such copy is produced, and of all the matters contained in or indorsed on such certificate of registry, and purporting to be authenticated by the signature of a registrar, when such certificate is produced.

Copies of registers and declarations to be admissible in evidence, and to be primâ facie proof of certain things.

Saving Clause.

Saving clause.

108. NOTHING in this Act contained shall repeal or affect an Act passed in the session of Parliament holden in the third and fourth years of the reign of her present Majesty, chapter fifty-six, intituled "An Act further to regulate "the trade of ships built and trading within the limits of the East India "Company's charter."

Saving of 3 & 4 Vict. c 56, relating to East Indian ships

Part III.

Masters and Seamen.

Application.

Application.

Application of part III. of Act.

109. The various provisions of the third part of this Act shall have the following applications, unless the context or subject matter requires a different application; (that is to say,)

Returns for certain ships belonging to the United Kingdom.

So much of the third part of this Act as relates to the delivery or transmission of lists of crews to the Registrar General of Seamen shall apply to all fishing vessels belonging to the United Kingdom, whether employed exclusively on the coasts of the United Kingdom or not; to all ships belonging to the Trinity House, or the Commissioners of Northern Lighthouses, constituted as herein-after mentioned, or the Port of Dublin Corporation, and to all pleasure yachts, and to the owners, masters, and crews of such ships:

Returns and wages of deceased seamen in certain colonial ships.

So much of the third part of this Act as relates to the delivery and transmission of lists of crews, and to the wages and effects of deceased seamen and apprentices, shall apply to all sea-going British ships, wherever registered, of which the crews are discharged or whose final port of destination is in the United Kingdom, and to the owners, masters, and crews of such ships:

Shipping and discharging men in the United Kingdom.

So much of the third part of this Act as relates to the shipping and discharge of seamen in the United Kingdom shall apply to all sea-going British ships, wherever registered, and to the owners, masters, and crews of such ships:

Volunteering into the Navy.

So much of the third part of this Act as relates to seamen volunteering into the Royal Navy shall apply to all sea-going British ships, wherever registered, and to the owners, masters, and crews of such ships, wherever the same may be:

Provisions applicable to colonial ships.

So much of the third part of this Act as relates to rights to wages and remedies for the recovery thereof; to the shipping and discharge of seamen in foreign ports; to leaving seamen abroad, and to the relief of seamen in distress in foreign ports; to the provisions, health, and accommodation of seamen; to the power of seamen to make complaints; to the protection of seamen from imposition; to discipline; to naval courts on the high seas and abroad; and to crimes committed abroad; shall apply to all ships registered in any of her Majesty's dominions abroad, when such ships are out of the jurisdiction of their respective governments, and to the owners, masters, and crews of such ships:

Application.

As to whole of part III. of Act.

And the whole of the third part of this Act shall apply to all sea-going ships registered in the United Kingdom (except such as are exclusively employed in fishing on the coasts of the United Kingdom, and such as belong to the Trinity House, the Commissioners of Northern Lighthouses, or the Port of Dublin Corporation, and also except pleasure yachts,) and also to all ships registered in any British possession and employed in trading or going between any place in the United Kingdom and any place or places not situate in the possession in which such ships are registered, and to the owners, masters, and crews of such ships respectively, wherever the same may be.

Local Marine Boards.

Local marine boards.

Constitution of local marine boards.

110. THERE shall be local marine boards for carrying into effect the provisions of this Act under the superintendence of the Board of Trade at those seaports of the United Kingdom at which local marine boards have heretofore been established, and at such other places as the Board of Trade appoints for this purpose; and each of such local marine boards shall be constituted as follows; (that is to say,) the mayor or provost and the stipendiary magistrate or such of the mayors or provosts and stipendiary magistrates of the place (if more than one) as the Board of Trade appoints shall be a member or members ex-officio; the Board of Trade shall appoint four members from persons residing or having places of business at the port or within seven miles thereof; and the owners of foreign-going ships and of home trade passenger ships registered at the port shall elect six members; and such elections as aforesaid shall take place on the twenty-fifth day of January one thousand eight hundred and fifty-seven, and on the twenty-fifth day of January in every third succeeding year, and such appointments as aforesaid shall take place within one month after such elections; and upon the conclusion of such month and the constitution of a new board the functions of the then existing board shall cease, and the board consisting of the members then newly elected and appointed shall take its place; and any occasional vacancy caused in the intervals between the general elections and appointments by death, resignation, disqualification, or otherwise, shall be filled up within one month after it occurs; and every person elected or appointed on an occasional vacancy shall continue a member until the next constitution of a new board; and the mayor or provost shall fix the place and mode of conducting all such elections as aforesaid, and also on occasional vacancies the day of election, and shall give at least ten days notice thereof; and the Board of Trade shall have power to decide any questions raised concerning any such elections.

Qualification

111. OWNERS of foreign-going ships and of home trade passenger ships

Local marine boards.

of voters for members of local marine boards.

registered at any seaport at which there is a local marine board shall have votes at the election of members of such board as follows; (that is to say,) every registered owner of not less than two hundred and fifty tons in the whole of such shipping shall at every election have one vote for each member for every two hundred and fifty tons owned by him, so that his votes for any one member do not exceed ten: And for the purpose of ascertaining the qualification of such electors the following rules shall be observed; (that is to say,) in the case of a ship registered in the name of one person, such person shall be deemed to be the owner, and in the case of a ship registered in distinct and several shares in the names of more persons than one, the tonnage shall be apportioned among the owners as nearly as may be in proportion to their respective shares, and each of such persons shall be deemed to be the owner of the tonnage so apportioned to him; and in the case of a ship or shares of a ship registered jointly without severance of interest in the names of more persons than one, the tonnage shall, if it is sufficient, either alone or together with other tonnage (if any) owned by such joint owners, to give a qualification to each of them, be apportioned equally between the joint owners and each of such joint owners shall be deemed to be the owner of the equal share so apportioned to him; but if it is not so sufficient, the whole of such tonnage shall be deemed to be owned by such one of the joint owners resident or having a place of business at the port or within seven miles thereof as is first named on the register; and in making any such apportionment as aforesaid any portion may be struck off so as to obtain a divisible amount; and the whole amount of tonnage so owned by each person, whether in ships or shares of or interests in ships, shall be added together, and, if sufficient, shall constitute his qualification.

Lists of such voters to be made.

112. THE collector or comptroller of customs in every seaport of the United Kingdom at which there is a local marine board shall, with the assistance of the Registrar General of Seamen, on or before the twenty-fifth day of December in the year one thousand eight hundred and fifty-six, and in every third succeeding year, make out an alphabetical list of the persons entitled by virtue of this Act to vote at the election of members of such local marine board, containing the christian name, surname, and residence of each such person, and the number of votes to which he is entitled, and shall sign such list, and cause a sufficient number of copies thereof to be printed, and to be fixed on or near the doors of the custom house at such seaport for two entire weeks next after such list has been made, and shall keep true copies of such list, and permit the same to be perused by any person, without payment of any fee, at all reasonable hours during such two weeks.

Revision of list of voters.

113. THE mayor or provost of every seaport at which there is a local

marine board, or such of them, if more than one, as is or are for the time being so appointed as aforesaid, shall at least twenty days before the twenty-fifth day of January in the year one thousand eight hundred and fifty-seven, and in each succeeding third year, nominate two justices of the peace to revise the said lists; and such justices shall, between the eighth and fifteenth days of January, both inclusive, in the year in which they are so nominated, revise the said list at the custom house of the port, or in some convenient place near thereto, to be hired, if necessary, by the said collector or comptroller, and shall give three clear days' notice of such revision by advertising the same in some local newspaper, and by affixing a notice thereof on or near to the doors of such custom house, and shall make such revision by inserting in such list the name of every person who claims to be inserted therein, and gives proof satisfactory to the said revisors of his right to have his name so inserted, and by striking out therefrom the name of every person to the insertion of which an objection is made by any other person named in such list who gives proof satisfactory to the said revisors that the name of the person so objected to ought not to have been inserted therein; and the decision of the said revisors with respect to every such claim or objection shall be conclusive; and the said revisors shall immediately after such revision sign their names at the foot of the list so revised; and such list so revised shall be the register of voters at elections of members of the local marine board of such seaport for three years, from the twenty-fifth day of January then next ensuing, inclusive, to the twenty-fourth day of January, inclusive, in the third succeeding year; and the said revised list, when so signed, shall be delivered to such mayor or provost as aforesaid of the place, who shall, if necessary, cause a sufficient number of copies thereof to be printed, and shall cause a copy to be delivered to every voter applying for the same.

Local marine boards.

114. The said collector or comptroller, if required, shall for the assistance of the said revisors in revising the said list produce to them the books containing the register of ships registered at such seaport; and the Registrar General of Seamen, if required, shall also produce or transmit to such revisors such certified extracts or returns from the books in his custody as may be necessary for the same purpose.

Registers to be produced.

115. The two justices aforesaid shall certify all expenses properly incurred by any such collector or comptroller as aforesaid in making and printing the said list and in the revision thereof, and the Board of Trade shall pay the same, and also all expenses properly incurred by any such mayor or provost as aforesaid in printing the same or in elections taking place under this Act; and the said Board may disallow any items of any such expenses as aforesaid which it deems to have been improperly incurred.

Expenses to be paid by Board of Trade.

Local marine boards.

Persons on revised list qualified to vote.

116. Every person whose name appears on such revised list, and no other person, shall be qualified to vote at the election of members of the local marine board at such seaport to be held on the twenty-fifth day of January next after the revision of such list, and at any occasional election held at any time between that day and the next ordinary triennial election of the members of such board.

Qualification of members of local marine boards.

117. Every male person who is according to such revised list of the voters at any seaport entitled to a vote shall be qualified to be elected a member of the local marine board of such seaport, and no other person shall be so qualified; and if any person elected as a member after such election ceases to be an owner of such quantity of tonnage as would entitle him to a vote, he shall no longer continue to act or be considered as a member, and thereupon another member shall be elected in his place.

Error in elections not to vitiate acts done.

118. No act of any local marine board shall be vitiated or prejudiced by reason of any irregularity in the election of any of its members, or of any error in the list of voters herein mentioned, or of any irregularity in the making or revising of such list, or by reason of any person who is not duly qualified as herein-before directed acting upon such board.

Minutes and business of local marine boards.

119. Every local marine board shall keep minutes of its proceedings, and the same shall be kept in such mode (if any) as the Board of Trade prescribes; and such minutes, and all books or documents used or kept by any local marine board, or by any examiners, shipping masters, or other officers or servants under the control of any local marine board, shall be open to the inspection of the Board of Trade and its officers; and every local marine board shall make and send to the Board of Trade such reports and returns as it requires; but, subject as aforesaid, every local marine board may regulate the mode in which its meetings are to be held and its business conducted.

If any local marine board fails to discharge its duties, Board of Trade may assume its duties, or direct a new election.

120. If any local marine board, by reason of any election not taking place, or of the simultaneous resignation or continued non-attendance of all or the greater part of the members, or from any other cause, fails to meet or to discharge its duties, the Board of Trade may in its discretion either take into its own hands the performance of the duties of such local marine board until the next triennial appointment and election thereof, or direct that a new appointment and election of such local marine board shall take place immediately.

Board of Trade, on complaint, may alter arrangements made by local marine boards.

121. If upon complaint made to the Board of Trade it appears to such Board that any appointments or arrangements made by any local marine board under the powers hereby given to it are not such as to meet the wants of the port, or are in any respect unsatisfactory or improper, the Board of Trade may annul, alter, or rectify such appointments or arrangements in such manner as, having regard to the intentions of this Act and to the wants of the port, it deems to be expedient.

Shipping offices.

Shipping Offices.

Local marine boards to establish shipping offices.

122. In every seaport in the United Kingdom in which there is a local marine board such board shall establish a shipping office or shipping offices, and may for that purpose, subject as herein mentioned, procure the requisite premises, and appoint and from time to time remove and re-appoint superintendents of such offices, to be called shipping masters, with any necessary deputies, clerks, and servants, and regulate the mode of conducting business at such offices, and shall, subject as herein mentioned, have complete control over the same; and every act done by or before any deputy duly appointed shall have the same effect as if done by or before a shipping master.

Board of Trade to have partial control over shipping offices.

123. The sanction of the Board of Trade shall be necessary so far as regards the number of persons so appointed by any such local marine board, and the amount of their salaries and wages and all other expenses; and the Board of Trade shall have the immediate control of such shipping offices, so far as regards the receipt and payment of money thereat; and all shipping masters, deputies, clerks, and servants so appointed as aforesaid shall before entering upon their duties give such security (if any) for the due performance thereof as the Board of Trade requires; and if in any case the Board of Trade has reason to believe that any shipping master, deputy, clerk, or servant appointed by any local marine board does not properly discharge his duties, the Board of Trade may cause the case to be investigated, and may, if it thinks fit so to do, remove him from his office, and may provide for the proper performance of his duties until another person is properly appointed in his place.

Business of such offices generally.

124. It shall be the general business of shipping masters appointed as aforesaid—

To afford facilities for engaging seamen, by keeping registries of their names and characters;

To superintend and facilitate their engagement and discharge in manner herein-after mentioned;

To provide means for securing the presence on board at the proper times of men who are so engaged;

To facilitate the making of apprenticeships to the sea service;

To perform such other duties relating to merchant seaman and merchant ships as are hereby or may hereafter under the powers herein contained be committed to them.

Fees to be paid upon engagements and discharges.

125. Such fees, not exceeding the sum specified in the table marked P. in the schedule hereto, as are from time to time fixed by the Board of Trade, shall be payable upon all engagements and discharges effected before shipping masters as herein-after mentioned, and the Board of Trade shall cause scales

Shipping offices.

of the fees payable for the time being to be prepared and to be conspicuously placed in the shipping offices; and all shipping masters, their deputies, clerks, and servants, may refuse to proceed with any engagement or discharge unless the fees payable thereon are first paid.

Masters to pay fees and to deduct part from wages.

126. Every owner or master of a ship engaging or discharging any seamen or seaman in a shipping office or before a shipping master shall pay to the shipping master the whole of the fees hereby made payable in respect of such engagement or discharge, and may, for the purpose of in part reimbursing himself, deduct in respect of each such engagement or discharge from the wages of all persons (except apprentices) so engaged or discharged, and retain, any sums not exceeding the sums specified in that behalf in the table marked Q. in the schedule hereto: Provided, that if in any cases the sums which the owner is so entitled to deduct exceed the amount of the fee payable by him, such excess shall be paid by him to the shipping master in addition to such fee.

Proviso as to excess.

Penalty on shipping masters taking other remuneration.

127. Any shipping master, deputy shipping master, or any clerk or servant in any shipping office, who demands or receives any remuneration whatever, either directly or indirectly, for hiring or supplying any seaman for any merchant ship, excepting the lawful fees payable under this Act, shall for every such offence incur a penalty not exceeding twenty pounds, and shall also be liable to be dismissed from his office by the Board of Trade.

Business of shipping offices may be transacted at custom houses.

128. The Board of Trade may, with the consent of the Commissioners of Customs, direct that any place in which no separate shipping office is established the whole or any part of the business of the shipping office shall be conducted at the custom house, and thereupon the same shall be there conducted accordingly; and in respect of such business such custom house shall for all purposes be deemed to be a shipping office, and the officer of Customs there to whom such business is committed shall for all purposes be deemed to be a shipping master within the meaning of this Act.

In London sailors' homes may be shipping offices.

129. The Board of Trade may appoint any superintendent of or other person connected with any sailors' home in the port of London to be a shipping master, with any necessary deputies, clerks, and servants, and may appoint any office in any such home to be a shipping office; and all shipping masters and shipping offices so appointed shall be subject to the immediate control of the Board of Trade, and not of the local marine board of the port.

Dispensation with shipping master's superintendence

130. The Board of Trade may from time to time dispense with the transaction before a shipping master or in a shipping office of any matters required by this Act to be so transacted; and thereupon such matters shall, if otherwise duly transacted as required by law, be as valid as if transacted before a shipping master or in a shipping office.

Examinations and Certificates of Masters and Mates.

Certificates of masters and mates.

Examinations to be instituted for masters and mates.

131. Examinations shall be instituted for persons who intend to become masters or mates of foreign-going ships, or of home trade passenger ships, or who wish to procure certificates of competency herein-after mentioned; and, subject as herein mentioned, the local marine boards shall provide for the examinations at their respective ports, and may appoint and from time to time remove and re-appoint examiners to conduct the same, and may regulate the same; and any members of the local marine board of the place where the examination is held may be present and assist at any such examination.

Powers of Board of Trade over examinations.

132. The Board of Trade may from time to time lay down rules as to the conduct of such examinations, and as to the qualifications of the applicants, and such rules shall be strictly adhered to by all examiners; and no examiner shall be appointed unless he possesses a certificate of qualification, to be from time to time granted or renewed by the Board of Trade; and the sanction of the Board of Trade shall be necessary, so far as regards the number of examiners to be appointed, and the amount of their remuneration; and the Board of Trade may at any time depute any of its officers to be present and assist at any examination; and if it appears to the Board of Trade that the examinations for any two or more ports can be conducted without inconvenience by the same examiners, it may require and authorize the local marine boards of such ports to act together as one board in providing for and regulating examinations and appointing and removing examiners for such ports.

Fees to be paid by applicants for examination.

133. All applicants for examination shall pay such fees, not exceeding the sums specified in the table marked R. in the schedule hereto, as the Board of Trade directs; and such fees shall be paid to such persons as the said Board appoints for that purpose.

Certificates of competency to be granted to those who pass.

134. Subject to the proviso herein-after contained, the Board of Trade shall deliver to every applicant who is duly reported by the local examiners to have passed the examination satisfactorily, and to have given satisfactory evidence of his sobriety, experience, ability, and general good conduct on board ship, a certificate (herein-after called a "certificate of competency") to the effect that he is competent to act as master, or as first, second, or only mate of a foreign-going ship, or as master or mate of a home trade passenger ship, as the case may be: Provided, that in every case in which the Board of Trade has reason to believe such report to have been unduly made, such Board may remit the case either to the same or to any other examiners, and may require a re-examination of the applicant, or a further inquiry into his testimonials and character, before granting him a certificate.

Certificates of masters and mates.

Certificates of service to be delivered to persons who served as masters or mates before 1851, and to certain naval officers; and certificates of service for home trade passenger ships to be delivered to persons who have served as masters or mates in such ships before 1st January 1854.

135. CERTIFICATES of service, differing in form from certificates of competency, shall be granted as follows; (that is to say,)

(1) Every person who before the first day of January one thousand eight hundred and fifty-one served as master in the British Merchant Service, or who has attained or attains the rank of lieutenant, master, passed mate, or second master, or any higher rank, in the service of her Majesty or of the East India Company, shall be entitled to a certificate of service as master for foreign-going ships:

(2) Every person who before the first day of January one thousand eight hundred and fifty-one served as mate in the British Merchant Service shall be entitled to a certificate of service as mate for foreign-going ships:

(3) Every person who before the first day of January one thousand eight hundred and fifty-four has served as master of a home trade passenger ship shall be entitled to a certificate of service as master for home trade passenger ships:

(4) Every person who before the first day of January one thousand eight hundred and fifty-four has served as mate of a home trade passenger ship shall be entitled to a certificate of service as mate for home trade passenger ships:

And each of such certificates of service shall contain particulars of the name, place, and time of birth, and of the length and nature of the previous service, of the person to whom the same is delivered; and the Board of Trade shall deliver such certificates of service to the various persons so respectively entitled thereto, upon their proving themselves to have attained such rank or to have served as aforesaid, and upon their giving a full and satisfactory account of the particulars aforesaid.

No foreign-going ship or home trade passenger ship to proceed to sea without certificates of the master and mates.

136. No foreign-going ship or home trade passenger ship shall go to sea from any port in the United Kingdom unless the master thereof, and in the case of a foreign-going ship the first and second mates or only mate (as the case may be), and in the case of a home trade passenger ship the first or only mate (as the case may be), have obtained and possess valid certificates either of competency or service appropriate to their several stations in such ship, or of a higher grade; and no such ship, if of one hundred tons burden or upwards, shall go to sea as aforesaid unless at least one officer besides the master has obtained and possesses a valid certificate appropriate to the grade of only mate therein, or to a higher grade; and every person who, having been engaged to serve as master or as first or second or only mate of any foreign-going ship, or as master or first or only mate of a home trade passenger ship,

goes to sea as aforesaid as such master or mate without being at the time entitled to and possessed of such a certificate as herein-before required, or who employs any person as master, or first, second, or only mate of any foreign-going ship, or as master or first or only mate of a home trade passenger ship, without ascertaining that he is at the time entitled to and possessed of such certificate, shall for each such offence incur a penalty not exceeding fifty pounds.

Certificates of masters and mates.

137. Every certificate of competency for a foreign-going ship shall be deemed to be of a higher grade than the corresponding certificate for a home trade passenger ship, and shall entitle the lawful holder thereof to go to sea in the corresponding grade in such last-mentioned ship; but no certificate for a home trade passenger ship shall entitle the holder to go to sea as master or mate of a foreign-going ship.

Certificates for foreign going ships available for home trade passenger ships.

138. All certificates, whether of competency or service, shall be made in duplicate, and one part shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded by the Registrar General of Seamen or by such other person as the Board of Trade appoints for that purpose; and the Board of Trade shall give to such registrar or such other person immediate notice of all orders made by it for cancelling, suspending, altering, or otherwise affecting any certificate in pursuance of the powers herein contained; and the registrar or such other person as aforesaid shall thereupon make a corresponding entry in the record of certificates; and a copy purporting to be certified by such registrar or his assistant or by such person as aforesaid of any certificate shall be primâ facie evidence of such certificate, and a copy purporting to be so certified as aforesaid of any entry made as aforesaid in respect of any certificate shall be primâ facie evidence of the truth of the matters stated in such entry.

The registrar to record grants, cancellations, &c. of certificates.

Duplicates and entries to be evidence.

139. Whenever any master or mate proves to the satisfaction of the Board of Trade that he has, without fault on his part, lost or been deprived of any certificate already granted to him, the Board of Trade shall, upon payment of such fee (if any) as it directs, cause a copy of the certificate to which by the record so kept as aforesaid he appears to be entitled to be made out and certified as aforesaid, and to be delivered to him; and any copy which purports to be so made and certified as aforesaid shall have all the effect of the original.

In case of loss a copy to be granted.

140. Every person who makes, or procures to be made, or assists in making, any false representation for the purpose of obtaining for himself or for any other person a certificate either of competency or service, or who forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any such certificate or any

Penalties for false representations; for forging or altering or fraudulently using or lend-

Certificates of masters and mates.

ing any certificate.

official copy of any such certificate, or who fraudulently makes use of any such certificate or any copy of any such certificate which is forged, altered, cancelled, suspended, or to which he is not justly entitled, or who fraudulently lends his certificate to or allows the same to be used by any other person, shall for each offence be deemed guilty of a misdemeanor.

Apprenticeships to sea service.

Shipping masters to assist in binding apprentices, and may receive fees.

Apprenticeships to the Sea Service.

141. All shipping masters appointed under this Act shall, if applied to for the purpose, give to any board of guardians, overseers, or other persons desirous of apprenticing boys to the sea service, and to masters and owners of ships requiring apprentices, such assistance as is in their power for facilitating the making of such apprenticeships, and may receive from persons availing themselves of such assistance such fees as may be determined in that behalf by the Board of Trade, with the concurrence, so far as relates to pauper apprentices in England, of the Poor Law Board in England, and so far as relates to pauper apprentices in Ireland, of the Poor Law Commissioners in Ireland.

Indentures of boys bound apprentices to sea service by guardians or overseers to be witnessed by two justices.

142. In the case of every boy bound apprentice to the sea service by any guardians or overseers of the poor, or other persons having the authority of guardians of the poor, the indentures shall be executed by the boy and the person to whom he is bound in the presence of and shall be attested by two justices of the peace, who shall ascertain that the boy has consented to be bound, and has attained the age of twelve years, and is of sufficient health and strength, and that the master to whom the boy is to be bound is a proper person for the purpose.

Indentures of apprenticeship to be exempt from stamp duty, and to be recorded.

143. All indentures of apprenticeship to the sea service shall be exempt from stamp duty; and all such indentures shall be in duplicate; and every person to whom any boy whatever is bound as an apprentice to the sea service in the United Kingdom shall within seven days after the execution of the indentures take or transmit the same to the Registrar General of Seamen, or to some shipping master; and the said registrar or shipping master shall retain and record one copy, and shall indorse on the other that the same has been recorded, and shall re-deliver the same to the master of the apprentice; and whenever any such indenture is assigned or cancelled, and whenever any such apprentice dies or deserts, the master of the apprentice shall within seven days after such assignment, cancellation, death, or desertion, if the same happens within the United Kingdom, or if the same happens elsewhere, so soon afterwards as circumstances permit, notify the same either to the said Registrar of Seamen, or to some shipping master, to be recorded; and every person who fails to comply with the provisions of this section shall incur a penalty not exceeding ten pounds.

Apprenticeships to sea service.

Rules to govern apprenticeship of paupers in Great Britain and Ireland respectively.

144. SUBJECT to the provisions herein-before contained, all apprenticeships to the sea service made by any guardians or overseers of the poor, or persons having the authority of guardians of the poor, shall if made in Great Britain be made in the same manner and be subject to the same laws and regulations as other apprenticeships made by the same persons, and if made in Ireland shall be subject to the following rules; (that is to say,)

(1) In every union the guardians of the poor, or other persons duly appointed to carry into execution the Acts for the relief of the destitute poor, and having the authority of guardians of the poor, may put out and bind as an apprentice to the sea service any boy who or whose parent or parents is or are receiving relief in such union, and who has attained the age of twelve years, and is of sufficient health and strength, and who consents to be so bound:

(2) If the cost of relieving any such boy is chargeable to an electoral division of a union, then (except in cases in which paid officers act in place of guardians) he shall not be bound as aforesaid unless the consent in writing of the guardians of such electoral division or of a majority of the guardians (if more than one) be first obtained, such consent to be, when possible, indorsed upon the indentures:

(3) The expense incurred in the binding and outfit of any such apprentice shall be charged to the union or electoral division (as the case may be) to which the boy or his parent or parents is or are chargeable at the time of his being apprenticed:

(4) All indentures made in any union may be sued upon by the guardians of the union or persons having the authority of guardians therein for the time being, by their name of office, and actions brought by them upon such indentures shall not abate by reason of death or change in the persons holding the office; but no such action shall be commenced without the consent of the Irish Poor Law Commissioners:

(5) The amount of the costs incurred in any such action, and not recovered from the defendant therein, may be charged upon the union or electoral division (as the case may be) to which the boy or his parent or parents was or were chargeable at the time of his being apprenticed.

Apprentices and their indentures to be brought before shipping master before each voyage

145. THE master of every foreign-going ship shall, before carrying any apprentice to sea from any place in the United Kingdom, cause such apprentice to appear before the shipping master before whom the crew is engaged, and shall produce to him the indenture by which such apprentice is bound, and the assignment or assignments thereof (if any); and the name of such

Apprenticeships to sea service.

in a foreign-going ship.

apprentice, with the date of the indenture, and of the assignment or assignments thereof (if any), and the name of the port or ports at which the same have been registered, shall be entered on the agreement; and for any default in obeying the provisions of this section the master shall for each offence incur a penalty not exceeding five pounds.

Engagement of Seamen.

Engagement of seamen.

Board of Trade may license persons to procure seamen.

146. The Board of Trade may grant to such persons as it thinks fit licences to engage or supply seamen or apprentices for merchant ships in the United Kingdom, to continue for such periods, to be upon such terms, and to be revocable upon such conditions, as such Board thinks proper.

Penalties:

147. The following offences shall be punishable as herein-after mentioned; (that is to say,)

For supplying seamen without licence;

(1) If any person not licensed as aforesaid, other than the owner or master or a mate of the ship, or some person who is bonâ fide the servant and in the constant employ of the owner, or a shipping master duly appointed as aforesaid, engages or supplies any seaman or apprentice to be entered on board any ship in the United Kingdom, he shall for each seaman or apprentice so engaged or supplied incur a penalty not exceeding twenty pounds:

for employing unlicensed persons;

(2) If any person employs any unlicensed person, other than persons so excepted as aforesaid, for the purpose of engaging or supplying any seaman or apprentice to be entered on board any ship in the United Kingdom, he shall for each seaman or apprentice so engaged or supplied incur a penalty not exceeding twenty pounds, and if licensed shall in addition forfeit his licence:

for receiving seamen illegally supplied.

(3) If any person knowingly receives or accepts to be entered on board any ship any seaman or apprentice who has been engaged or supplied contrary to the provisions of this Act, he shall for every seaman or apprentice so engaged or supplied incur a penalty not exceeding twenty pounds.

Penalty for receiving remuneration from seamen for shipping them.

148. If any person demands or receives, either directly or indirectly, from any seaman or apprentice, or from any person seeking employment as a seaman or apprentice, or from any person on his behalf, any remuneration whatever, other than the fees hereby authorized, for providing him with employment, he shall for every such offence incur a penalty not exceeding five pounds.

Agreements to be made with seamen, containing

149. The master of every ship, except ships of less than eighty tons registered tonnage exclusively employed in trading between different ports on the coasts of the United Kingdom, shall enter into an agreement with every

seaman whom he carries to sea from any port in the United Kingdom as one of his crew, in the manner herein-after mentioned; and every such agreement shall be in a form sanctioned by the Board of Trade, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs the same, and shall contain the following particulars as terms thereof; (that is to say,)

Engagement of seamen.

certain particulars.

(1) The nature, and, as far as practicable, the duration, of the intended voyage or engagement:

(2) The number and description of the crew, specifying how many are engaged as sailors:

(3) The time at which each seaman is to be on board or to begin work:

(4) The capacity in which each seaman is to serve:

(5) The amount of wages which each seaman is to receive:

(6) A scale of the provisions which are to be furnished to each seaman:

(7) Any regulations as to conduct on board, and as to fines, short allowance of provisions, or other lawful punishments for misconduct, which have been sanctioned by the Board of Trade as regulations proper to be adopted, and which the parties agree to adopt:

And every such agreement shall be so framed as to admit of stipulations, to be adopted at the will of the master and seaman in each case, as to advance and allotment of wages, and may contain any other stipulations which are not contrary to law: Provided, that if the master of any ship belonging to any British possession has an agreement with his crew made in due form according to the law of the possession to which such ship belongs, or in which her crew were engaged, and engages single seamen in the United Kingdom, such seamen may sign the agreement so made, and it shall not be necessary for them to sign an agreement in the form sanctioned by the Board of Trade.

Proviso as to forms for colonial ships.

150. In the case of all foreign-going ships, in whatever part of her Majesty's dominions the same are registered, the following rules shall be observed with respect to agreements; (that is to say,)

For foreign-going ships such agreements, when made in the United Kingdom, except in special cases, to be made before and attested by a shipping master;

(1) Every agreement made in the United Kingdom (except in such cases of agreements with substitutes as are herein-after specially provided for) shall be signed by each seaman in the presence of a shipping master:

(2) Such shipping master shall cause the agreement to be read over and explained to each seaman, or otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature:

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to be in duplicate;

(3) When the crew is first engaged the agreement shall be signed in duplicate, and one part shall be retained by the shipping master, and the other part shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship, and shall be delivered to the master:

provision for substitutes.

(4) In the case of substitutes engaged in the place of seamen who have duly signed the agreement, and whose services are lost within twenty-four hours of the ship's putting to sea, by death, desertion, or other unforeseen cause, the engagement shall, when practicable, be made before some shipping master duly appointed in the manner herein-before specified; and whenever such last-mentioned engagement cannot be so made, the master shall, before the ship puts to sea, if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to the seamen; and the seamen shall thereupon sign the same in the presence of a witness, who shall attest their signatures.

Foreign-going ships making short voyages may have running agreements.

151. In the case of foreign-going ships making voyages averaging less than six months in duration, running agreements with the crew may be made to extend over two or more voyages, so that no such agreement shall extend beyond the next following thirtieth day of June or thirty-first day of December, or the first arrival of the ship at her port of destination in the United Kingdom after such date, or the discharge of cargo consequent upon such arrival; and every person entering into such agreement, whether engaged upon the first commencement thereof or otherwise, shall enter into and sign the same in the manner hereby required for other foreign-going ships; and every person engaged thereunder, if discharged in the United Kingdom, shall be discharged in the manner hereby required for the discharge of seamen belonging to other foreign-going ships.

Engagement and discharge of seamen in the meantime.

152. The master of every foreign-going ship for which such a running agreement as aforesaid is made shall, upon every return to any port in the United Kingdom before the final termination of the agreement, discharge or engage before the shipping master at such port any seaman whom he is required by law so to discharge or engage, and shall upon every such return indorse on the agreement a statement (as the case may be) either that no such discharges or engagements have been made or are intended to be made before the ship again leaves port, or that all such discharges or engagements have been duly made as herein-before required, and shall deliver the agreement so indorsed to the shipping master; and any master who wilfully makes a false statement in such indorsement shall incur a penalty not exceeding twenty

pounds; and the shipping master shall also sign an indorsement on the agreement to the effect that the provisions of this Act relating to such agreement have been complied with, and shall re-deliver the agreement so indorsed to the master.

Engagement of seamen.

153. In cases in which such running agreements are made, the duplicate agreement retained by the shipping master upon the first engagement of the crew shall either be transmitted to the Registrar General of Seamen immediately, or be kept by the shipping master until the expiration of the agreement, as the Board of Trade directs.

Duplicates of running agreements, how to be dealt with.

154. For the purpose of determining the fees to be paid upon the engagement and discharge of seamen belonging to foreign-going ships which have running agreements as aforesaid, the crew shall be considered to be engaged when the agreement is first signed, and to be discharged when the agreement finally terminates, and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen.

Fees to be paid on such running agreements.

155. In the case of home trade ships, crews or single seamen may, if the master thinks fit, be engaged before a shipping master in the manner hereinbefore directed with respect to foreign-going ships; and in every case in which the engagement is not so made, the master shall, before the ship puts to sea, if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to each seaman, and the seaman shall thereupon sign the same in the presence of a witness, who shall attest his signature.

In home trade ships, agreements to be entered into before a shipping master or other witness.

156. In cases where several home trade ships belong to the same owner, the agreement with the seamen may, notwithstanding anything herein contained, be made by the owner instead of by the master, and the seamen may be engaged to serve in any two or more of such ships, provided that the names of the ships and the nature of the service are specified in the agreement; but with the foregoing exception all provisions herein contained which relate to ordinary agreements for home trade ships shall be applicable to agreements made in pursuance of this section.

Special agreements for home trade ships belonging to same owners.

157. If in any case a master carries any seaman to sea without entering into an agreement with him in the form and manner and at the place and time hereby in such case required, the master in the case of a foreign-going ship, and the master or owner in the case of a home trade ship, shall for each such offence incur a penalty not exceeding five pounds.

Penalty for shipping seamen without agreement duly executed.

158. The master of every foreign-going ship of which the crew has been engaged before a shipping master shall before finally leaving the United Kingdom sign and send to the nearest shipping master a full and accurate statement, in a form sanctioned by the Board of Trade, of every change which

Changes in crew to be reported.

Engagement of seamen.

takes place in his crew before finally leaving the United Kingdom, and in default shall for each offence incur a penalty not exceeding five pounds; and such statement shall be admissible in evidence, subject to all just exceptions.

Seamen engaged in the colonies to be shipped before some shipping master or officer of Customs

159. EVERY master of a ship who, if such ship is registered in the United Kingdom, engages any seaman in any British possession, or, if such ship belongs to any British possession, engages any seaman in any British possession other than that to which the ship belongs, shall, if there is at the place where such seaman is engaged any official shipping master or other officer duly appointed for the purpose of shipping seamen, engage such seaman before such shipping master, and if there is no such shipping master or officer, then before some officer of Customs; and the same rules, qualifications, and penalties as are herein-before specified with respect to the engagement of seamen before shipping masters in the United Kingdom shall apply to such engagements in a British possession; and upon every such engagement such shipping master or officer as aforesaid shall indorse upon the agreement an attestation to the effect that the same has been signed in his presence, and otherwise made as hereby required; and if in any case such attestation is not made, the burden of proving that the seaman was duly engaged as hereby required shall lie upon the master.

Seamen engaged in foreign ports to be shipped with the sanction and in the presence of the consul.

160. EVERY master of a British ship who engages any seaman at any place out of her Majesty's dominions in which there is a British consular officer shall before carrying such seaman to sea procure the sanction of such officer, and shall engage such seaman before such officer; and the same rules as are herein-before contained with respect to the engagement of seamen before shipping masters in the United Kingdom shall apply to such engagements made before consular officers; and upon every such engagement the consular officer shall indorse upon the agreement his sanction thereof, and an attestation to the effect that the same has been signed in his presence, and otherwise made as hereby required; and every master who engages any seaman in any place in which there is a consular officer, otherwise than as herein-before required, shall incur a penalty not exceeding twenty pounds; and if in any case the indorsement and attestation hereby required is not made upon the agreement, the burden of proving the engagement to have been made as herein-before required shall lie upon the master.

Rules as to production of agreements and certificates of masters and mates of foreign-going ships.

161. THE following rules shall be observed with respect to the production of agreements and certificates of competency or service for foreign-going ships; (that is to say,)

(1) The master of every foreign-going ship shall, on signing the agreement with his crew, produce to the shipping master before whom the same is signed the certificates of competency or service which the

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said master, and his first and second mate, or only mate, as the case may be, are hereby required to possess; and upon such production being duly made, and the agreement being duly executed as hereby required, the shipping master shall sign and give to the master a certificate to that effect:

(2) In the case of running agreements for foreign-going ships the shipping master shall, before the second and every subsequent voyage made after the first commencement of the agreement, sign and give to the master, on his complying with the provisions herein contained with respect to such agreements, and producing to the shipping master the certificate of competency or service of any first, second, or only mate then first engaged by him, a certificate to that effect:

(3) The master of every foreign-going ship shall, before proceeding to sea, produce the certificate so to be given to him by the shipping master as aforesaid to the collector or comptroller of Customs, and no officer of Customs shall clear any such ship outwards without such production; and if any such ship attempts to go to sea without a clearance, any such officer may detain her until such certificate as aforesaid is produced:

(4) The master of every foreign-going ship shall within forty-eight hours after the ship's arrival at her final port of destination in the United Kingdom, or upon the discharge of the crew, whichever first happens, deliver such agreement to a shipping master at the place; and such shipping master shall thereupon give to the master a certificate of such delivery; and no officer of Customs shall clear any foreign-going ship inwards without the production of such certificate:

And if the master of any foreign-going ship fails to deliver the agreement to a shipping master at the time and in the manner hereby directed, he shall for every default incur a penalty not exceeding five pounds.

162. The following rules shall be observed with respect to the production of agreements and certificates of competency or service for home trade ships; (that is to say,)

Rules as to production of agreements and certificates for home trade ship.

(1) In the case of home trade ships of more than eighty tons burden, no agreement shall extend beyond the next following thirtieth day of June or thirty-first day of December, or the first arrival of the ship at her final port of destination in the United Kingdom after such date, or the discharge of cargo consequent upon such arrival:

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(2) The master or owner of every such ship shall within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year transmit or deliver to some shipping master in the United Kingdom every agreement made within the six calendar months next preceding such days respectively, and shall also in the case of home trade passenger ships produce to the shipping master the certificates of competency or service which the said master, and his first or only mate, as the case may be, are hereby required to possess:

(3) The shipping master shall thereupon give to the master or owner a certificate of such delivery and production; and no officer of Customs shall grant a clearance or transire for any such ship as last aforesaid without the production of such certificate; and if any such ship attempts to ply or go to sea without such clearance or transire, any such officer may detain her until the said certificate is produced:

And if the agreement for any home trade ship is not delivered or transmitted by the master or owner to a shipping master at the time and in the manner hereby directed, such master or owner shall for every default incur a penalty not exceeding five pounds.

Alterations to be void, unless attested to have been made with the consent of all parties.

163. Every erasure, interlineation, or alteration in any such agreement with seamen as is required by the third part of this Act (except additions so made as herein-before directed for shipping substitutes or persons engaged subsequently to the first departure of the ship) shall be wholly inoperative unless proved to have been made with the consent of all the persons interested in such erasure, interlineation, or alteration, by the written attestation (if made in her Majesty's dominions) of some shipping master, justice, officer of customs, or other public functionary, or (if made out of her Majesty's dominions) of a British consular officer, or, where there is no such officer, of two respectable British merchants.

Penalty for falsifying agreement.

164. Every person who fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, or makes, or assists in making, or procures to be made, any false entry in, or delivers, assists in delivering, or procures to be delivered, a false copy of any agreement, shall for each such offence be deemed guilty of a misdemeanor.

Seamen not to be bound to produce agreement.

165. Any seaman may bring forward evidence to prove the contents of any agreement, or otherwise to support his case, without producing or giving notice to produce the agreement or any copy thereof.

Copy of agreement to be made accessible to crew.

166. The master shall at the commencement of every voyage or engagement cause a legible copy of the agreement (omitting the signatures) to be

placed or posted up in such part of the ship as to be accessible to the crew, and in default shall for each offence incur a penalty not exceeding five pounds.

Engagement of seamen.

167. Any seaman who has signed an agreement, and is afterwards discharged before the commencement of the voyage, or before one month's wages are earned, without fault on his part justifying such discharge, and without his consent, shall be entitled to receive from the master or owner, in addition to any wages he may have earned, due compensation for the damage thereby caused to him, not exceeding one month's wages, and may, on adducing such evidence as the court hearing the case deems satisfactory of his having been so improperly discharged as aforesaid, recover such compensation as if it were wages duly earned.

Seamen discharged before voyage to have compensation.

Allotment of Wages.

Allotment of wages.

168. All stipulations for the allotment of any part of the wages of a seaman during his absence which are made at the commencement of the voyage shall be inserted in the agreement, and shall state the amounts and times of the payments to be made; and all allotment notes shall be in forms sanctioned by the Board of Trade.

Regulations as to allotment notes.

169. The wife, or the father or mother, or the grandfather or grandmother, or any child or grandchild, or any brother or sister of any seaman in whose favour an allotment note of part of the wages of such seaman is made may, unless the seaman is shown in manner herein-after mentioned to have forfeited or ceased to be entitled to the wages out of which the allotment is to be paid, and subject, as to the wife, to the provision herein-after contained, sue for and recover the sums allotted by the note when and as the same are made payable, with costs, from the owner or any agent who has authorized the drawing of the note, either in the county court, or in the summary manner in which seamen are by this Act enabled to sue for and recover wages not exceeding fifty pounds; and in any such proceeding it shall be sufficient for the claimant to prove that he or she is the person mentioned in the note, and that the note was given by the owner or by the master or some other authorized agent; and the seaman shall be presumed to be duly earning his wages unless the contrary is shown to the satisfaction of the court, either by the official statement of the change in the crew caused by his absence made and signed by the master, as by this Act is required, or by a duly certified copy of some entry in the official log book to the effect that he has left the ship, or by a credible letter from the master of the ship to the same effect, or by such other evidence, of whatever description, as the court in its absolute discretion considers sufficient to show satisfactorily that the seaman has ceased to be entitled to the wages out of which the allotment is to be paid: Provided, that the wife of any seaman who

Allotment notes may be sued on summarily by certain persons, and under certain conditions.

Allotment of wages.

deserts her children, or so misconducts herself as to be undeserving of support from her husband, shall thereupon forfeit all right to further payments of any allotment of his wages which has been made in her favour.

Discharge and Payment of Wages.

Discharge and payment of wages.

Discharge from foreign-going ships to be made before shipping master.

170. In the case of all British foreign-going ships, in whatever part of her Majesty's dominions the same are registered, all seamen discharged in the United Kingdom shall be discharged and receive their wages in the presence of a shipping master duly appointed under this Act, except in cases where some competent court otherwise directs; and any master or owner of any such ship who discharges any seaman belonging thereto, or, except as aforesaid, pays his wages within the United Kingdom in any other manner, shall incur a penalty not exceeding ten pounds; and in the case of home trade ships seamen may, if the owner or master so desires, be discharged and receive their wages in like manner.

Master to deliver account of wages.

171. Every master shall, not less than twenty-four hours before paying off or discharging any seaman, deliver to him, or, if he is to be discharged before a shipping master, to such shipping master, a full and true account, in a form sanctioned by the Board of Trade, of his wages, and of all deductions to be made therefrom on any account whatever, and in default shall for each offence incur a penalty not exceeding five pounds; and no deduction from the wages of any seaman (except in respect of any matter happening after such delivery) shall be allowed unless it is included in the account so delivered; and the master shall during the voyage enter the various matters in respect of which such deductions are made, with the amounts of the respective deductions, as they occur, in a book to be kept for that purpose, and shall, if required, produce such book at the time of the payment of wages, and also upon the hearing before any competent authority of any complaint or question relating to such payments.

On discharge, masters to give seamen certificates of discharge, and return certificates of competency or service to mates.

172. Upon the discharge of any seaman, or upon payment of his wages, the master shall sign and give him a certificate of his discharge, in a form sanctioned by the Board of Trade, specifying the period of his service and the time and place of his discharge; and if any master fails to sign and give to any such seaman such certificate of discharge, he shall for each such offence incur a penalty not exceeding ten pounds; and the master shall also upon the discharge of every certificated mate whose certificate of competency or service has been delivered to and retained by him return such certificate, and shall in default incur a penalty not exceeding twenty pounds.

Shipping master may decide

173. Every shipping master shall hear and decide any question whatever between a master or owner and any of his crew which both parties agree in

Discharge and payment of wages.

writing to submit to him; and every award so made by him shall be binding on both parties, and shall in any legal proceeding which may be taken in the matter before any court of justice be deemed to be conclusive as to the rights of the parties; and no such submission or award shall require a stamp; and any document purporting to be such submission or award shall be primâ facie evidence thereof.

questions which parties refer to him.

Master and others to produce ship's papers to shipping masters, and give evidence.

174. In any proceeding relating to the wages, claims, or discharge of any seaman carried on before any shipping master under the provisions of this Act, such shipping master may call upon the owner or his agent, or upon the master or any mate or other member of the crew, to produce any log books, papers, or other documents in their respective possession or power relating to any matter in question in such proceeding, and may call before him and examine any of such persons being then at or near the place on any such matter; and every owner, agent, master, mate, or other member of the crew who when called upon by the shipping master does not produce any such paper or document as aforesaid, if in his possession or power, or does not appear and give evidence, shall, unless he shows some reasonable excuse for such default, for each such offence incur a penalty not exceeding five pounds.

Settlement of wages.

175. The following rules shall be observed with respect to the settlement of wages; (that is to say,)

Release to be signed before and attested by the shipping master;

(1) Upon the completion before a shipping master of any discharge and settlement, the master or owner and each seaman shall respectively in the presence of the shipping master sign in a form sanctioned by the Board of Trade a mutual release of all claims in respect of the past voyage or engagement, and the shipping master shall also sign and attest it, and shall retain and transmit it as herein directed:

to be discharge;

(2) Such release so signed and attested shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement:

and to be evidence.

(3) A copy of such release, certified under the hand of such shipping master to be a true copy, shall be given by him to any party thereto requiring the same; and such copy shall be receivable in evidence upon any future question touching such claims as aforesaid, and shall have all the effect of the original of which it purports to be a copy:

No other receipt to be a discharge.

(4) In cases in which discharge and settlement before a shipping master are hereby required, no payment, receipt, settlement, or discharge otherwise made shall operate or be admitted as evidence of the release or satisfaction of any claim:

Discharge and payment of wages.

Voucher to be given to master, and to be evidence.

(5) Upon any payment being made by a master before a shipping master, the shipping master shall, if required, sign and give to such master a statement of the whole amount so paid; and such statement shall as between the master and his employer be received as evidence that he has made the payments therein mentioned.

Master to make reports of character.

176. Upon every discharge effected before a shipping master the master shall make and sign in a form sanctioned by the Board of Trade a report of the conduct, character, and qualifications of the persons discharged, or may state in a column to be left for that purpose in the said form that he declines to give any opinion upon such particulars, or upon any of them; and the shipping master shall transmit the same to the Registrar General of Seamen, or to such other person as the Board of Trade directs, to be recorded, and shall, if desired so to do by any seaman, give to him or indorse on his certificate of discharge a copy of so much of such report as concerns him; and every person who makes, assists in making, or procures to be made, any false certificate or report of the service, qualifications, conduct, or character of any seaman, knowing the same to be false, or who forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any such certificate or report, or who fraudulently makes use of any certificate or report, or of any copy of any certificate or report, which is forged or altered or does not belong to him, shall for each such offence be deemed guilty of a misdemeanor.

Remittance of Wages, and Savings Banks for Seamen.

Remittance of wages, and savings banks for seamen

Facilities may be given for remitting seamen's wages.

177. Facilities shall, if the Board of Trade so directs, be given for remitting the wages and other monies of seamen and apprentices to their relatives or other persons by means of money orders issued by shipping masters; and the Board of Trade may make regulations concerning such orders, and the persons by or to whom, and the mode and time in and at which, the same are to be paid, and may from time to time repeal or alter any such regulations; and all such regulations, so long as they are in force, shall be binding upon all persons interested or claiming to be interested in such orders, as well as upon the officers employed in issuing or paying the same; and no legal proceeding shall be instituted against the Board of Trade, or against any shipping master or other public officer employed about such orders, on account of any such regulations, or on account of any act done or left undone in pursuance thereof, or on account of any refusal, neglect, or omission to pay any such money order, unless such refusal, neglect, or omission arise from fraud or wilful misbehaviour on the part of the person against whom proceedings are instituted.

Remittance of wages, and savings banks for seamen.

Power to pay when order is lost.

178. The Board of Trade may, in any case in which it thinks fit so to do, cause the amount of any such money order as aforesaid to be paid to the person to whom or in whose favour the same may have been granted, or to his personal representatives, legatees, or next of kin, notwithstanding that such order may not be in his or their possession; and in all such cases from and after such payment the Board of Trade and every shipping master or other officer of the Board of Trade shall be freed from all liability in respect of such order.

Penalty for issuing money orders with fraudulent intent.

179. Every shipping master or other public officer who grants or issues any money order with a fraudulent intent shall in England or Ireland be deemed guilty of felony, and in Scotland of a high crime and offence, and shall be liable to be kept in penal servitude for a term not exceeding four years.

Savings banks for seamen may be established.

180. The Commissioners for the Reduction of the National Debt, or the comptroller general acting under them, may on the application and recommendation of the Board of Trade establish savings banks at such ports and places within the United Kingdom, either in the shipping offices established in such ports or elsewhere, as may appear to be expedient, and may appoint treasurers to receive from or on account of seamen, or the wives and families of seamen, desirous to become depositors in such savings banks, deposits to an amount not exceeding one hundred and fifty pounds in the whole in respect of any one account, under such regulations as may be prescribed by the said commissioners or comptroller general; and such regulations shall be binding on all such treasurers and depositors; and the said commissioners may remove such treasurers, and appoint others in their place; and all the provisions of the Acts now in force relating to savings banks, except so far as relates to the annual amount of deposit, shall apply to all savings banks which may be established under the authority of this Act, and to such treasurers and depositors as aforesaid.

Legal Rights to Wages.

Legal rights to wages.

Right to wages and provisions, when to begin.

181. A seaman's right to wages and provisions shall be taken to commence either at the time at which he commences work or at the time specified in the agreement for his commencement of work or presence on board, whichever first happens.

Seamen not to give up certain rights.

182. No seaman shall by any agreement forfeit his lien upon the ship, or be deprived of any remedy for the recovery of his wages to which he would otherwise have been entitled; and every stipulation in any agreement inconsistent with any provision of this Act, and every stipulation by which any seaman consents to abandon his right to wages in the case of the loss of the

Legal rights to wages.

ship, or to abandon any right which he may have or obtain in the nature of salvage, shall be wholly inoperative.

Wages not to be dependent on the earning of freight.

183. No right to wages shall be dependent on the earning of freight; and every seaman and apprentice who would be entitled to demand and recover any wages if the ship in which he has served had earned freight shall, subject to all other rules of law and conditions applicable to the case, be entitled to claim and recover the same notwithstanding that freight has not been earned; but in all cases of wreck or loss of the ship, proof that he has not exerted himself to the utmost to save the ship, cargo, and stores shall bar his claim.

In case of death, such wages to be paid as after mentioned.

184. If any seaman or apprentice to whom wages are due under the last preceding enactment dies before the same are paid, they shall be paid and applied in the manner herein-after specified with regard to the wages of seamen who die during a voyage.

Rights to wages in case of termination of service by wreck or illness.

185. In cases where the service of any seaman terminates before the period contemplated in the agreement by reason of the wreck or loss of the ship, and also in cases where such service terminates before such period as aforesaid by reason of his being left on shore at any place abroad under a certificate of his unfitness or inability to proceed on the voyage granted as hereinafter mentioned, such seaman shall be entitled to wages for the time of service prior to such termination as aforesaid, but not for any further period.

Wages not to accrue during refusal to work or imprisonment.

186. No seaman or apprentice shall be entitled to wages for any period during which he unlawfully refuses or neglects to work when required, whether before or after the time fixed by the agreement for his beginning work, nor, unless the court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him.

Period within which wages are to be paid.

187. The master or owner of every ship shall pay to every seaman his wages within the respective periods following; (that is to say,) in the case of a home trade ship within two days after the termination of the agreement, or at the time when such seaman is discharged, whichever first happens; and in the case of all other ships (except ships employed in the southern whale fishery or on other voyages for which seamen by the terms of their agreement are wholly compensated by shares in the profits of the adventure) within three days after the cargo has been delivered, or within five days after the seaman's discharge, whichever first happens; and in all cases the seaman shall at the time of his discharge be entitled to be paid on account a sum equal to one fourth part of the balance due to him; and every master or owner who neglects or refuses to make payment in manner aforesaid without sufficient cause shall pay to the seaman a sum not exceeding the amount of

two days pay for each of the days, not exceeding ten days, during which payment is delayed beyond the respective periods aforesaid, and such sum shall be recoverable as wages.

Legal rights to wages.

Mode of recovering Wages.

Mode of recovering wages.

188. Any seaman or apprentice, or any person duly authorized on his behalf, may sue in a summary manner before any two justices of the peace acting in or near to the place at which the service has terminated, or at which the seaman or apprentice has been discharged, or at which any person upon whom the claim is made is or resides, or in Scotland either before any such justices or before the sheriff of the county within which any such place is situated, for any amount of wages due to such seaman or apprentice not exceeding fifty pounds over and above the costs of any proceeding for the recovery thereof, so soon as the same becomes payable; and every order made by such justices or sheriff in the matter shall be final.

Seamen may sue for wages in a summary manner.

189. No suit or proceeding for the recovery of wages under the sum of fifty pounds shall be instituted by or on behalf of any seaman or apprentice in any Court of Admiralty or Vice-Admiralty, or in the Court of Session in Scotland, or in any superior court of record in her Majesty's dominions, unless the owner of the ship is adjudged bankrupt or declared insolvent, or unless the ship is under arrest or is sold by the authority of any such court as aforesaid, or unless any justices acting under the authority of this Act refer the case to be adjudged by such court, or unless neither the owner nor master is or resides within twenty miles of the place where the seaman or apprentice is discharged or put ashore.

Restrictions on suits for wages in superior courts.

190. No seaman who is engaged for a voyage or engagement which is to terminate in the United Kingdom shall be entitled to sue in any court abroad for wages, unless he is discharged with such sanction as herein required and with the written consent of the master, or proves such ill-usage on the part of the master or by his authority as to warrant reasonable apprehension of danger to the life of such seaman if he were to remain on board; but if any seaman on his return to the United Kingdom proves that the master or owner has been guilty of any conduct or default which but for this enactment would have entitled the seaman to sue for wages before the termination of the voyage or engagement, he shall be entitled to recover in addition to his wages such compensation, not exceeding twenty pounds, as the court hearing the case thinks reasonable.

No seaman to sue for wages abroad, except in cases of discharge or of danger to life.

191. Every master of a ship shall, so far as the case permits, have the same rights, liens, and remedies for the recovery of his wages which by this Act or by any law or custom any seaman, not being a master, has for the

Master to have same remedies for wages as seamen.

Mode of recovering wages

recovery of his wages; and if in any proceeding in any Court of Admiralty or Vice-Admiralty touching the claim of a master to wages any right of set-off or counter-claim is set up, it shall be lawful for such court to enter into and adjudicate upon all questions and to settle all accounts then arising or outstanding and unsettled between the parties to the proceeding, and to direct payment of any balance which is found to be due.

Relief to Seamen's Families out of Poor Rates.

Relief to seamen's families out of poor rates.

Relief to seamen's families to be chargeable on a certain proportion of their wages.

192. WHENEVER during the absence of any seaman on a voyage his wife, children, and step-children, or any of them, become or becomes chargeable to any union or parish in the United Kingdom, such union or parish shall be entitled to be reimbursed out of the wages of such seaman earned during such voyage any sums properly expended during his absence in the maintenance of his said relations, or any of them, so that such sums do not exceed the following proportions of his said wages; (that is to say,)

(1) If only one of such relations is chargeable, one half of such wages:

(2) If two or more of such relations are chargeable, two thirds of such wages:

But if during the absence of the seaman any sums have been paid by the owner to or on behalf of any such relation as aforesaid under an allotment note given by the seaman in his, her, or their favour, any such claim for reimbursement as aforesaid shall be limited to the excess (if any) of the proportion of the wages herein-before mentioned over the sums so paid.

Notice to be given to owner, and charge to be enforced on the return of the seaman.

193. FOR the purpose of obtaining such reimbursement as aforesaid, the guardians of the union or parish, where the relief of the poor is administered by guardians, and the overseers of the poor of any other parish in England, and the guardians or other persons having the authority of guardians in any union in Ireland, and the inspector of the poor in Scotland, may give to the owner of the ship in which the seaman is serving a notice in writing, stating the proportion of the seaman's wages upon which it is intended to make the claim, and requiring the owner to retain such proportion in his hands for a period to be therein mentioned, not exceeding twenty-one days from the time of the seaman's return to his port of discharge, and also requiring such owner immediately on such return to give to such guardians, overseers, persons, or inspector, notice in writing of such return; and such owner, after receiving such notice as aforesaid, shall be bound to retain the said proportion of wages, and to give notice of the seaman's return accordingly, and shall likewise give to the seaman notice of the intended claim; and the said guardians, overseers, persons, or inspector may upon the seaman's return apply in a summary way in England or Ireland to any two justices having jurisdiction in such union

Relief to seamen's families out of poor rates.

or parish as aforesaid, and in Scotland to the sheriff of the county, for an order for such reimbursement as aforesaid; and such justices or sheriff may hear the case, and may make an order for such reimbursement to the whole extent aforesaid, or to such lesser amount as they or he may under the circumstances think fit; and the owner shall pay to such guardians, overseers, persons, or inspector, out of the seaman's wages, the amount so ordered to be paid by way of reimbursement, and shall pay the remainder of the said wages to the seaman; and if no such order as aforesaid is obtained within the period mentioned in the notice so to be given to the owner as aforesaid, the proportion of wages so to be retained by him as aforesaid shall immediately on the expiration of such period, and without deduction, be payable to the seaman.

Wages and Effects of deceased Seamen.

Wages and effects of deceased seamen.

Masters to take charge of or sell effects of deceased seamen which are on board, and enter the same and wages due in the official log.

194. Whenever any seaman or apprentice belonging to or sent home in any British ship, whether a foreign-going ship or a home trade ship, employed on a voyage which is to terminate in the United Kingdom dies during such voyage, the master shall take charge of all money, clothes, and effects which he leaves on board, and shall, if he thinks fit, cause all or any of the said clothes and effects to be sold by auction at the mast or other public auction, and shall thereupon sign an entry in the official log book containing the following particulars; (that is to say,)

(1) A statement of the amount of the money and a description of the effects so left by the deceased:

(2) In case of a sale, a description of each article sold, and the sum received for each:

(3) A statement of the sum due to the deceased as wages, and the total amount of the deductions (if any) to be made therefrom:

And shall cause such entry to be attested by a mate and by one of the crew.

Such effects and wages to be paid either to consul or to shipping master, with full accounts.

195. In the cases provided for by the last preceding section, the following rules shall be observed; (that is to say,)

(1) If the ship proceeds at once to any port in the United Kingdom without touching on the way at any foreign port, the master shall within forty-eight hours after his arrival deliver any such effects as aforesaid remaining unsold, and pay any money which he has taken charge of or received from such sale as aforesaid, and also the balance of wages due to the deceased, to the shipping master at the port of destination in the United Kingdom:

(2) If the ship touches and remains for forty-eight hours at some foreign port or at some port in her Majesty's dominions abroad before

Wages and effects of deceased seamen.

coming to any port in the United Kingdom, the master shall report the case to the British consular officer or officer of Customs there, as the case may be, and shall give to such officer any information he requires as to the destination of the ship and probable length of the voyage; and such officer may thereupon, if he considers it expedient so to do, require the said effects, money, and wages to be delivered and paid to him, and shall upon such delivery and payment give to the master a receipt, and the master shall within forty-eight hours after his arrival at his port of destination in the United Kingdom produce the same to the shipping master there; and such consular officer or officer of Customs shall in such case indorse and certify upon the agreement with the crew such particulars with respect to such delivery and payment as the Board of Trade requires:

(3) If such officer as aforesaid does not require such payment and delivery to be made to him, the master shall take charge of the said effects, money, and wages, and shall within forty-eight hours after his arrival at his port of destination in the United Kingdom deliver and pay the same to the shipping master there:

(4) The master shall in all cases in which any seaman or apprentice dies during the progress of a voyage or engagement give to the Board of Trade, or to such officer or shipping master as aforesaid, an account in such form as they respectively require of the effects, money, and wages so to be delivered and paid; and no deductions claimed in such account shall be allowed unless verified, if there is any official log book, by such entry therein as herein-before required, and also by such other vouchers (if any) as may be reasonably required by the Board of Trade, or by the officer or shipping master to whom the account is rendered:

(5) Upon due compliance with such of the provisions of this section as relate to acts to be done at the port of destination in the United Kingdom, the shipping master shall grant to the master a certificate to that effect; and no officer of Customs shall clear inwards any foreign-going ship without the production of such certificate.

Penalties for not taking charge of, remitting, or accounting for such monies and effects.

196. If any master fails to take such charge of the money or other effects of a seaman or apprentice dying during a voyage, or to make such entries in respect thereof, or to procure such attestation to such entries, or to make such payment or delivery of any money, wages, or effects of any seaman or apprentice dying during a voyage, or to give such account in respect thereof, as herein-before respectively directed, he shall be accountable for the money,

Wages and effects of deceased seamen.

wages, and effects of the seaman or apprentice to the Board of Trade, and shall pay and deliver the same accordingly; and such master shall in addition for every such offence incur a penalty not exceeding treble the value of the money or effects not accounted for, or, if such value is not ascertained, not exceeding fifty pounds; and if any such money, wages, or effects are not duly paid, delivered, or accounted for by the master, the owner of the ship shall pay, deliver, and account for the same, and such money and wages and the value of such effects shall be recoverable from him accordingly; and if he fails to account for and pay the same, he shall, in addition to his liability for the said money and value, incur the same penalty which is herein-before mentioned as incurred by the master for the like offence; and all money, wages, and effects of any seaman or apprentice dying during a voyage shall be recoverable in the same courts and by the same modes of proceeding by which seamen are hereby enabled to recover wages due to them.

Officers of Customs and consuls to take charge of effects left by seamen abroad, and to remit the same and their wages to Board of Trade.

197. If any such seaman or apprentice as last aforesaid dies abroad at any place either in or out of her Majesty's dominions, leaving any money or effects not on board his ship, the chief officer of customs or the British consular officer at or nearest to the place, as the case may be, shall claim and take charge of such money and effects; and such officer shall, if he thinks fit, sell all or any of such effects, or any effects of any deceased seaman or apprentice delivered to him under the provisions herein-before contained; and every such officer shall quarterly, or at such other times as the Board of Trade directs, remit to her Majesty's Paymaster General all monies belonging to or arising from the sale of the effects of or paid as the wages of any deceased seamen or apprentices which have come to his hands under the provisions herein-before contained, and shall render such accounts in respect thereof as the Board of Trade requires.

Wages and effects of seamen dying at home to be paid in certain cases to Board of Trade.

198. Whenever any seaman or apprentice dies in the United Kingdom, and is at the time of his death entitled to claim from the master or owner of any ship in which he has served any unpaid wages or effects, such master or owner shall pay and deliver or account for the same to the shipping master at the port where the seaman or apprentice was discharged or was to have been discharged, or to the Board of Trade, or as it directs.

If less than 50l., wages and property of deceased seamen may be paid over without probate or administration to the persons entitled.

199. If the money and effects of any deceased seaman or apprentice paid, delivered, or remitted to the Board of Trade or its agents, including the monies received for any part of the said effects which have been sold either before delivery to the Board of Trade or by its direction, do not exceed in value the sum of fifty pounds, then, subject to the provisions herein-after contained, and to all such deductions for expenses incurred in respect of the seaman or apprentice or of his said money and effects as the said Board thinks proper to allow, the said Board may, if it thinks fit so to do, pay and deliver the said

Wages and effects of deceased seamen.

money and effects either to any claimants who can prove themselves to the satisfaction of the said Board either to be his widow or children, or to be entitled to the effects of the deceased under his will (if any), or under the statutes for the distribution of the effects of intestates, or under any other statute, or at common law, or to be entitled to procure probate or take out letters of administration or confirmation, although no probate or letters of administration or confirmation have been taken out, and shall be thereby discharged from all further liability in respect of the money and effects so paid and delivered, or may, if it thinks fit so to do, require probate or letters of administration or confirmation to be taken out, and thereupon pay and deliver the said money and effects to the legal personal representatives of the deceased; and all claimants to whom such money or effects are so paid or delivered shall apply the same in due course of administration; and if such money and effects exceed in value the sum of fifty pounds, then, subject to the provisions herein-after contained, and to deduction for expenses, the Board of Trade shall pay and deliver the same to the legal personal representatives of the deceased.

Mode of payment under wills made by seamen.

200. In cases where the deceased seaman or apprentice has left a will, the Board of Trade shall have the following powers; (that is to say,)

(1) It may in its discretion refuse to pay or deliver any such wages or effects as aforesaid to any person claiming to be entitled thereto under a will made on boardship unless such will is in writing, and is signed or acknowledged by the testator in the presence of the master or first or only mate of the ship, and is attested by such master or mate:

(2) It may in its discretion refuse to pay or deliver any such wages or effects as aforesaid to any person not being related to the testator by blood or marriage who claims to be entitled thereto under a will made elsewhere than on board ship, unless such will is in writing, and is signed or acknowledged by the testator in the presence of two witnesses, one of whom is some shipping master appointed under this Act, or some minister or officiating minister or curate of the place in which the same is made, or, in a place where there are no such persons, some justice of the peace, or some British consular officer, or some officer of Customs, and is attested by such witnesses:

Whenever any claim made under a will is rejected by the Board of Trade on account of the said will not being made and attested as herein-before required, the wages and effects of the deceased shall be dealt with as if no will had been made.

Wages and effects of deceased seamen.

Provision for payment of just claims by creditors, and for preventing fraudulent claims.

201. THE following rules shall be observed with respect to creditors of deceased seamen and apprentices; (that is to say,)

(1) No such creditor shall be entitled to claim from the Board of Trade the wages or effects of any such seaman or apprentice or any part thereof by virtue of letters of administration taken out by him, or by virtue of confirmation in Scotland as executor creditor:

(2) No such creditor shall be entitled by any means whatever to payment of his debt out of such wages and effects, if the debt accrued more than three years before the death of the deceased, or if the demand is not made within two years after such death:

(3) Subject as aforesaid, the steps to be taken for procuring payment of such debt shall be as follows (that is to say): Every person making a demand as creditor shall deliver to the Board of Trade an account in writing in such form as it requires, subscribed with his name, stating the particulars of his demand and the place of his abode, and verified by his declaration made before a justice:

(4) If before such demand is made any claim to the wages and effects of the deceased made by any person interested therein as his widow or child, or under a will, or under the statutes for the distribution of the effects of intestates, or under any other statute, or at common law, has been allowed, the Board of Trade shall give notice to the creditor of the allowance of such person's claim, and the creditor shall thereupon have the same rights and remedies against such person as if he or she had received the said wages and effects as the legal personal representative of the deceased:

(5) If no claim by any such person has been allowed, the Board of Trade shall proceed to investigate the creditor's account, and may for that purpose require him to prove the same, and to produce all books, accounts, vouchers, and papers relating thereto; and if by such means the creditor duly satisfies the Board of Trade of the justice of the demand, either in the whole or in part, the same shall be allowed and paid accordingly, so far as the assets in the hands of the Board of Trade will extend for that purpose, and such payment shall discharge the Board of Trade from all further liability in respect of the money so paid; but if such Board is not so satisfied, or if such books, accounts, vouchers, or papers as aforesaid are not produced, and no sufficient reason is assigned for not producing them, the demand shall be disallowed:

(6) In any case whatever the Board of Trade may delay the investigation of any demand made by a creditor for the payment of his debt for

Wages and effects of deceased seamen.

one year from the time of the first delivery of the demand; and if in the course of that time a claim to the wages and effects of the deceased is made and substantiated as herein-before required by any person interested therein as a widow or child, or under a will, or under the statutes for the distribution of the effects of intestates, or under any other statute, or at common law, the Board of Trade may pay and deliver the same to such person; and thereupon the creditor shall have the same rights and remedies against such person as if he or she had received the same as the legal personal representative of the deceased.

Mode of dealing with unclaimed wages of deceased seamen.

202. In cases of wages or effects of deceased seamen or apprentices received by the Board of Trade to which no claim is substantiated within six years after the receipt thereof by such Board, it shall be in the absolute discretion of such Board, if any subsequent claim is made, either to allow or to refuse the same; and, subject to the provision herein-after contained, the Board of Trade shall from time to time pay any monies arising from the unclaimed wages and effects of deceased seamen, which in the opinion of such Board it is not necessary to retain for the purpose of satisfying claims, into the receipt of her Majesty's Exchequer, in such manner as the Treasury directs, and such monies shall be carried to and form part of the Consolidated Fund of the United Kingdom.

Punishment for forgery and false representations in order to obtain wages and property of deceased seamen.

203. Every person who, for the purpose of obtaining, either for himself or for another, any money or effects of any deceased seaman or apprentice, forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any document purporting to show or assist in showing a right to such wages or effects, and every person who for the purpose aforesaid makes use of any such forged or altered document as aforesaid, or who for the purpose aforesaid gives or makes, or procures to be given or made, or assists in giving or making, or procuring to be given or made, any false evidence or representation, knowing the same to be false, shall be punishable with penal servitude for a term not exceeding four years, or with imprisonment with or without hard labour for any period not exceeding two years, or, if summarily prosecuted and convicted, by imprisonment, with or without hard labour, for any period not exceeding six months.

Effects of seamen discharged from Navy to be disposed of by Accountant General of Navy.

204. In the case of seamen invalided or discharged from any of her Majesty's ships, and sent home in merchant ships, any monies or effects belonging to them which are paid, remitted, or delivered to the Board of Trade, or its agents, under the provisions herein-before contained, shall be paid over and disposed of in such manner as the Accountant General of her Majesty's Navy directs.

Leaving Seamen abroad.

Leaving seamen abroad.

On discharge of seamen abroad, by sale of ship or otherwise, certificates of discharge to be given, and seamen to be sent home at expense of owner.

205. WHENEVER any British ship is transferred or disposed of at any place out of her Majesty's dominions, and any seaman or apprentice belonging thereto does not in the presence of some British consular officer, or, if there is no such consular officer there, in the presence of one or more respectable British merchants residing at the place, and not interested in the said ship, signify his consent in writing to complete the voyage if continued, and whenever the service of any seaman or apprentice belonging to any British ship terminates at any place out of her Majesty's dominions, the master shall give to each such seaman or apprentice a certificate of discharge in the form sanctioned by the Board of Trade as aforesaid, and in the case of any certificated mate whose certificate he has retained shall return such certificate to him, and shall also, besides paying the wages to which such seaman or apprentice is entitled, either provide him with adequate employment on board some other British ship bound to the port in her Majesty's dominions at which he was originally shipped, or to such other port in the United Kingdom as is agreed upon by him, or furnish the means of sending him back to such port, or provide him with a passage home, or deposit with such consular officer or such merchant or merchants as aforesaid such a sum of money as is by such officer or merchants deemed sufficient to defray the expenses of his subsistence and passage home; and such consular officer or merchants shall indorse upon the agreement of the ship which the seaman or apprentice is leaving the particulars of such payment, provision, or deposit; and if the master refuses or neglects to comply with the requirements of this section, such expenses as last aforesaid, if defrayed by such consular officer or by any other person, shall, unless such seaman or apprentice has been guilty of barratry, be a charge upon the ship to which such seaman or apprentice belonged, and upon the owner for the time being thereof, and may be recovered against such owners, with costs, at the suit of the consular officer or other person defraying such expenses, or, in case the same has been allowed to the consular officer out of the public monies, as a debt due to her Majesty, either by ordinary process of law, or in the manner in which seamen are hereby enabled to recover wages; and such expenses, if defrayed by the seaman or apprentice, shall be recoverable as wages due to him.

Forcing seamen on shore a misdemeanor.

206. IF the master or any other person belonging to any British ship wrongfully forces on shore and leaves behind, or otherwise wilfully and wrongfully leaves behind, in any place, on shore or at sea, in or out of her Majesty's dominions, any seaman or apprentice belonging to such ship before the completion of the voyage for which such person was engaged or the return

Leaving seamen abroad.

of the ship to the United Kingdom, he shall for each such offence be deemed guilty of a misdemeanor.

No seamen to be discharged or left abroad without certificate of some functionary.

207. If the master of any British ship does any of the following things; (that is to say,)

(1) Discharges any seaman or apprentice in any place situate in any British possession abroad (except the possession in which he was shipped), without previously obtaining the sanction in writing indorsed on the agreement of some public shipping master or other officer duly appointed by the local government in that behalf, or (in the absence of any such functionary) of the chief officer of customs resident at or near the place where the discharge takes place;

(2) Discharges any seaman or apprentice at any place out of her Majesty's dominions, without previously obtaining the sanction so indorsed as aforesaid of the Britith consular officer there, or (in his absence) of two respectable merchants resident there;

(3) Leaves behind any seaman or apprentice at any place situate in any British possession abroad on any ground whatever, without previously obtaining a certificate in writing so indorsed as aforesaid from such officer or person as aforesaid, stating the fact and the cause thereof, whether such cause be unfitness or inability to proceed to sea, or desertion or disappearance;

(4) Leaves behind any seaman or apprentice at any place out of her Majesty's dominions, on shore or at sea, on any ground whatever, without previously obtaining the certificate indorsed in manner and to the effect last aforesaid of the British consular officer there, or (in his absence) of two respectable merchants, if there is any such at or near the place where the ship then is:

He shall for each such default be deemed guilty of a misdemeanor; and the said functionaries shall and the said merchants may examine into the grounds of such proposed discharge, or into the allegation of such unfitness, inability, desertion, or disappearance as aforesaid, in a summary way, and may for that purpose, if they think fit so to do, administer oaths, and may either grant or refuse such sanction or certificate as appears to them to be just.

Proof of such certificate to be upon the master.

208. Upon the trial of any information, indictment, or other proceeding against any person for discharging or leaving behind any seaman or apprentice, contrary to the provisions of this Act, it shall be upon such person either to produce the sanction or certificate hereby required, or to prove that he had obtained the same previously to having discharged or left behind such seaman or apprentice, or that it was impracticable for him to obtain such sanction or certificate.

Leaving seamen abroad.

Wages to be paid when seamen are left behind on ground of inability.

209. Every master of any British ship who leaves any seaman or apprentice on shore at any place abroad in or out of her Majesty's dominions, under a certificate of his unfitness or inability to proceed on the voyage, shall deliver to one of the functionaries aforesaid, or (in the absence of such functionaries) to the merchants by whom such certificate is signed, or, if there be but one respectable merchant resident at such place, to him, a full and true account of the wages due to such seaman or apprentice, such account when delivered to a consular officer to be in duplicate, and shall pay the same either in money or by a bill drawn upon the owner; and in the case of every bill so drawn such functionary, merchants, or merchant as aforesaid shall by indorsement certify thereon that the same is drawn for money due on account of a seaman's wages, and shall also indorse the amount for which such bill is drawn, with such further particulars in respect of the case as the Board of Trade requires, upon the agreement of the ship; and every such master as aforesaid who refuses or neglects to deliver a full account of such wages, and pay the amount thereof in money or by bill, as herein-before required, shall for every such offence or default be liable, in addition to the payment of the wages, to a penalty not exceeding ten pounds; and every such master who delivers a false account of such wages shall for every such offence, in addition to the payment of the wages, incur a penalty not exceeding twenty pounds.

Such wages to be treated as money due to the seamen, subject to payment of expense of their subsistence and passage home.

210. Every such payment as last aforesaid, whether by bill or in money, shall, if made in any British possession, be made to the seaman or apprentice himself, and, if made out of her Majesty's dominions, to the consular officer, who shall, if satisfied with the account, indorse on one of the duplicates thereof a receipt for the amount paid or bill delivered, and shall return the same to the master; and the master shall within forty-eight hours after his return to his port of destination in the United Kingdom deliver the same to the shipping master there; and the consular officer shall retain the other duplicate of the said account, and shall, if the seaman or apprentice subsequently obtains employment at or otherwise quits the port, deduct out of the sum received by him as aforesaid any expenses which have been incurred by him in respect of the subsistence of the seaman or apprentice under the provisions herein contained, except such as the master or owner of the ship is hereby required to pay, and shall pay the remainder to the seaman or apprentice, and shall also deliver to him an account of the sums so received and expended on his behalf; and shall, if the seaman or apprentice dies before his ship quits the port, deal with the same in the manner herein-after specified in that behalf, and shall, if the seaman or apprentice is sent home at the public expense under the provisions herein contained, account for the amount received to the Board of Trade; and such amount shall, after deducting any expenses which have been duly

Leaving seamen abroad.

incurred in respect of such seaman or apprentice, except such as the master or owner of the ship is hereby required to pay, be dealt with as wages to which he is entitled, and shall be paid accordingly.

Distressed seamen found abroad may be relieved and sent home at the public expense.

211. THE Governors, consular officers, and other officers of her Majesty in foreign countries shall, and in places where there are no such Governors or officers any two resident British merchants may, provide for the subsistence of all seamen or apprentices, being subjects of her Majesty, who have been shipwrecked, discharged, or left behind at any place abroad, whether from any ship employed in the Merchant Service or from any of her Majesty's ships, or who have been engaged by any person acting either as principal or agent to serve in any ship belonging to any foreign power or to the subject of any foreign state, and who are in distress in any place abroad, until such time as they are able to provide them with a passage home, and for that purpose shall cause such seamen or apprentices to be put on board some ship belonging to any subject of her Majesty bound to any port of the United Kingdom, or to the British possession to which they belong, (as the case requires,) which is in want of men to make up its complement, and in default of any such ship shall provide them with a passage home as soon as possible in some ship belonging to a subject of her Majesty so bound as aforesaid, and shall indorse on the agreement of any ship on board of which any seaman or apprentice is so taken or sent the name of every person so sent on board thereof, with such particulars concerning the case as the Board of Trade requires, and shall be allowed for the subsistence of any such seaman or apprentice such sum per diem as the Board of Trade from time to time appoints; and the amount due in respect of such allowance shall be paid out of any monies applicable to the relief of distressed British seamen, and granted by Parliament for the purpose, on the production of the bills of the disbursements, with the proper vouchers.

Masters of British ships compelled to take them.

212. THE master of every British ship so bound as aforesaid shall receive and afford a passage and subsistence to all seamen or apprentices whom he is required to take on board his ship under the provisions herein-before contained, not exceeding one for every fifty tons burden, and shall during the passage provide every such seaman or apprentice with a proper berth or sleeping place, effectually protected against sea and weather; and on the production of a certificate signed by any Governor, consular officer, or merchants by whose directions any such seaman or apprentice was received on board, specifying the number and names of such seamen or apprentices, and the time when each of them respectively was received on board, and on a declaration made by such person before a justice, and verified by the Registrar General of Seamen, stating the number of days during which each seaman or apprentice received subsistence and was provided for as aforesaid on board his ship,

Leaving seamen abroad.

and stating also the number of men and boys forming the complement of his crew, and the number of seamen and apprentices employed on board his ship during such time, and every variation (if any) of such number, such person shall be entitled to be paid out of the said monies applicable to the relief of distressed British seamen, in respect of the subsistence and passage of every seaman or apprentice so conveyed, subsisted, and provided for by him exceeding the number (if any) wanted to make up the complement of his crew, such sum per diem as the Board of Trade from time to time appoints; and if any person having charge of any such ship fails or refuses to receive on board his ship, or to give a passage home, or subsistence to, or to provide for, any such seaman or apprentice as aforesaid, contrary to the provisions of this Act, he shall incur a penalty not exceeding one hundred pounds for each seaman or apprentice with respect to whom he makes such default or refusal.

Power to sue for the amount advanced for the relief of seamen left abroad.

213. If any seaman or apprentice belonging to any British ship is discharged or left behind at any place out of the United Kingdom without full compliance on the part of the master with all the provisions in that behalf in this Act contained, and becomes distressed and is relieved under the provisions of this Act, or if any subject of her Majesty, after having been engaged by any person (whether acting as principal or agent) to serve in any ship belonging to any foreign power, or to the subject of any foreign power, becomes distressed and is relieved as aforesaid, the wages (if any) due to such seaman or apprentice, and all expenses incurred for his subsistence, necessary clothing, conveyance home, and burial, in case he should die abroad before reaching home, shall be a charge upon the ship, whether British or foreign, to which he so belonged as aforesaid; and the Board of Trade may in the name of her Majesty (besides suing for any penalties which may have been incurred) sue for and recover the said wages and expenses, with costs, either from the master of such ship as aforesaid, or from the person who is owner thereof for the time being, or, in the case of such engagement as aforesaid for service in a foreign ship, from such master or owner, or from the person by whom such engagement was so made as aforesaid; and such sums shall be recoverable either in the same manner as other debts due to her Majesty, or in the same manner and by the same form and process in which wages due to the seaman would be recoverable by him; and in any proceedings for that purpose production of the account (if any) to be furnished as herein-before is provided in such cases, together with proof of payment by the Board of Trade or by the Paymaster General of the charges incurred on account of any such seaman, apprentice, or other person, shall be sufficient evidence that he was relieved, conveyed home, or buried, (as the case may be,) at her Majesty's expense.

Volunteering into the Navy.

Volunteering into the Navy

Seamen allowed to leave their ships in order to enter the Navy.

214. ANY seaman may leave his ship for the purpose of forthwith entering into the Naval Service of her Majesty, and such leaving his ship shall not be deemed a desertion therefrom, and shall not render him liable to any punishment or forfeiture whatever; and all stipulations introduced into any agreement whereby any seaman is declared to incur any forfeiture or be exposed to any loss in case he enters into her Majesty's Naval Service shall be void, and every master or owner who causes any such stipulation to be so introduced shall incur a penalty not exceeding twenty pounds.

Clothes to be delivered at once.

Wages to be given to the Queen's officer on account of the seamen.

215. WHENEVER any seaman, without having previously committed any act amounting to and treated by the master as desertion, leaves his ship in order to enter into the Naval Service of her Majesty, and is received into such service, the master shall deliver to him his clothes and effects on board such ship, and shall pay the proportionate amount of his wages down to the time of such entry, subject to all just deductions, as follows; (that is to say,) the master of the said ship shall pay the same to the officer authorized to receive such seaman into her Majesty's service, either in money, or by bill drawn upon the owner, and payable at sight to the order of the Accountant General of the Navy; and the receipt of such officer shall be a discharge for the money or bill so given; and such bill shall be exempt from stamp duty; and if such wages are paid in money, such money shall be credited in the muster book of the ship to the account of the said seaman; and if such wages are paid by bill, such bill shall be noted in the said muster book and shall be sent to the said Accountant General, who shall present the same or cause the same to be presented for payment, and shall credit the produce thereof to the account of the said seaman; and such money or produce (as the case may be) shall not be paid to the said seaman until the time at which he would have been entitled to receive the same if he had remained in the service of the ship which he had so quitted as aforesaid; and if any such bill is not duly paid when presented, the said Accountant General or the seaman on whose behalf the same is given may sue thereon, or may recover the wages due by all or any of the means by which wages due to merchant seamen are recoverable; and if upon any seaman leaving his ship in the manner and for the purpose aforesaid the master fails to deliver his clothes and effects or to pay his wages as hereinbefore required, he shall, in addition to his liability to pay and deliver the same, incur a penalty not exceeding twenty pounds: Provided, that no officer who receives any such bill as aforesaid shall be subject to any liability in respect thereof, except for the safe custody thereof until sent to the said Accountant General as aforesaid.

Volunteering into the Navy.

Repayment to owner of advance paid and not duly earned.

216. If upon any seaman leaving his ship for the purpose of entering the Naval Service of her Majesty the owner or master of such ship shows to the satisfaction of the Admiralty that he has paid or properly rendered himself liable to pay an advance of wages to or on account of such seaman, and that such seaman has not at the time of quitting his ship duly earned such advance by service therein, and, in the case of such liability as aforesaid, if such owner or master actually satisfies the same, it shall be lawful for the Admiralty to pay to such owner or master so much of such advance as has not been duly earned, and to deduct the sum so paid from the wages of the seaman earned or to be earned in the Naval Service of her Majesty.

If new seamen are engaged instead of the original seamen, the owner may apply for repayment of any extra expense he has been put to.

217. If in consequence of any seaman so leaving his ship without the consent of the master or owner thereof it becomes necessary for the safety and proper navigation of the said ship to engage a substitute or substitutes, and if the wages or other remuneration paid to such substitute or substitutes for subsequent service exceed the wages or remuneration which would have been payable to the said seaman under his agreement for similar service, the master or owner of the said ship may apply to the registrar of the High Court of Admiralty in England for a certificate authorizing the repayment of such excess; and such application shall be in such form, and shall be accompanied by such documents, and by such statements, whether on oath or otherwise, as the judge of the said court from time to time directs.

Application, how to be decided on, and amount of repayment, how to be ascertained.

218. The said registrar shall upon receiving any such application as aforesaid give notice thereof in writing, and of the sum claimed, to the Secretary to the Admiralty, and shall proceed to examine the said application, and may call upon the Registrar General of Seamen to produce any papers in his possession relating thereto, and may call for further evidence; and if the whole of the claim appears to him to be just, he shall give a certificate accordingly; but if he considers that such claim or any part thereof is not just, he shall give notice of such his opinion in writing under his hand to the person making the said application, or his attorney or agent; and if within sixteen days from the giving of such notice such person does not leave or cause to be left at the office of the registrar of the said court a written notice demanding that the said application shall be referred to the judge of the said court, then the said registrar shall finally decide thereon, and certify accordingly; but if such notice is left as aforesaid, then the said application shall stand referred to the said judge in his chambers, and his decision thereon shall be final, and the said registrar shall certify the same accordingly; and the said registrar and judge respectively shall in every proceeding under this Act have full power to administer oaths, and to exercise all the ordinary powers of the court, as in any other proceeding within its jurisdiction; and the said registrar or judge

Volunteering into the Navy.

(as the case may be) may, if he thinks fit, allow for the costs of any proceeding under this Act any sum not exceeding five pounds for each seaman so quitting his ship as aforesaid; and such sum shall be added to the sum allowed, and shall be certified by the said registrar accordingly.

Accountant General to pay sums when ascertained.

219. EVERY certificate so given shall be sent by post or otherwise to the person making the application, his attorney or agent, and a copy thereof shall be sent to the Accountant General of the Navy; and such Accountant General shall, upon delivery to him of the said original certificate, together with a receipt in writing purporting to be a receipt from the master or owner making the application, pay to the person delivering the same, out of the monies applicable to the Naval Service of her Majesty, and granted by Parliament for the purpose, the amount mentioned in such certificate; and such certificate and receipt shall absolutely discharge the said Accountant General and her Majesty from all liability in respect of the monies so paid, or of the said application.

Penalty for forgery and false representations in support of such applications.

220. EVERY person who in making or supporting any such application as aforesaid to the registrar of the High Court of Admiralty forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any document, and every person who in making or supporting any such application presents or makes use of any such forged or altered document, or who in making or supporting any such application makes or gives, or assists in making or giving, or procures to be made or given, any false evidence or representation, knowing the same to be false, shall be deemed guilty of a misdemeanor.

Provisions, health, and accommodation.

Provisions, Health and Accommodation.

Survey of provisions and water, on complaint made.

221. ANY three or more of the crew of any British ship may complain to any officer in command of any of her Majesty's ships, or any British consular officer, or any shipping master, or any chief officer of Customs, that the provisions or water for the use of the crew are at any time of bad quality, unfit for use, or deficient in quantity; and such officer may thereupon examine the said provisions or water, or cause them to be examined; and if on examination such provisions or water are found to be of bad quality and unfit for use or to be deficient in quantity, the person making such examination shall signify the same in writing to the master of the ship; and if such master does not thereupon provide other proper provisions or water in lieu of any so signified to be of a bad quality and unfit for use, or does not procure the requisite quantity of any so signified to be insufficient in quantity, or uses any provisions or water which have been so signified as aforesaid to be of a bad quality and unfit for use, he shall in every such case incur a penalty not

exceeding twenty pounds; and upon every such examination as aforesaid the officers making or directing the same shall enter a statement of the result of the examination in the official log, and shall send a report thereof to the Board of Trade, and such report, if produced out of the custody of such Board or its officers, shall be received in evidence in any legal proceeding.

Provisions, health, and accommodation.

222. If the officer to whom any such complaint as last aforesaid is made certifies in such statement as aforesaid that there was no reasonable ground for such complaint, each of the parties so complaining shall be liable to forfeit to the owner, out of his wages, a sum not exceeding one week's wages.

Forfeiture for frivolous complaint.

223. In the following cases; (that is to say,)

(1) If during a voyage the allowance of any of the provisions which any seaman has by his agreement stipulated for is reduced (except in accordance with any regulations for reduction by way of punishment contained in the agreement, and also except for any time during which such seaman wilfully and without sufficient cause refuses or neglects to perform his duty, or is lawfully under confinement for misconduct, either on board or on shore);

(2) If it is shown that any of such provisions are or have during the voyage been bad in quality and unfit for use;

Allowance for short or bad provisions.

The seaman shall receive by way of compensation for such reduction or bad quality, according to the time of its continuance, the following sums, to be paid to him in addition to and to be recoverable as wages; (that is to say,)

(1) If his allowance is reduced by any quantity not exceeding one third of the quantity specified in the agreement, a sum not exceeding four pence a day;

(2) If his allowance is reduced by more than one third of such quantity, eight pence a day;

(3) In respect of such bad quality as aforesaid, a sum not exceeding one shilling a day:

But if it is shown to the satisfaction of the court before which the case is tried that any provisions the allowance of which has been reduced could not be procured or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, the court shall take such circumstances into consideration, and shall modify or refuse compensation as the justice of the case may require.

224. The following rules shall be observed with respect to medicines, medical stores, and anti-scorbutics; (that is to say,)

Medicines, lime or lemon juice, sugar, and vinegar, to be provided and kept on board certain ships.

(1) The Board of Trade shall from time to time issue and cause to be published a scale of medicines and medical stores suitable to accidents and diseases arising on sea voyages:

Provisions, health, and accommodation.

(2) The owner of every ship navigating between the United Kingdom and any place out of the same shall provide and cause to be constantly kept on board such ship a supply of such medicines and medical stores, in accordance with the said scale:

(3) The master or owner of every foreign-going ship (except those bound to European ports or to ports in the Mediterranean Sea, and also except such ships or classes of ships bound to ports on the eastern coast of America north of the thirty-fifth degree of north latitude, and to any islands or places in the Atlantic Ocean north of the same limit, as the Board of Trade may from time to time exempt from this enactment,) shall also provide and cause to be kept on board such ship a sufficient quantity of lime or lemon juice, or of such articles as the Board of Trade sanctions as substitutes for lime or lemon juice, and also of sugar and vinegar:

[Repealed, 30 & 31 Vict. c. 124, s. 3.]

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Masters to keep weights and measures on board.

225. EVERY master shall keep on board proper weights and measures for the purpose of determining the quantities of the several provisions and articles served out, and shall allow the same to be used at the time of serving out such provisions and articles, in the presence of a witness, whenever any dispute arises about such quantities, and in default shall for every offence incur a penalty not exceeding ten pounds.

Board of Trade and local boards may appoint inspectors of medicines, who are to see that ships are properly provided.

226. ANY local marine board may, upon being required by the Board of Trade so to do, appoint and remove a medical inspector of ships for the port, and may fix his remuneration, such remuneration to be subject to the control of the Board of Trade; and at ports where there are no local marine boards the Board of Trade may appoint and remove such inspectors, and fix their remuneration; and it shall be the duty of such inspectors to inspect the medicines, medical stores, lime or lemon juice, or other articles, sugar and vinegar, required to be kept on board any such ships as aforesaid; and such inspection, if made at places where there are local marine boards, shall be made under their direction, and also in any special cases under the direction of the Board of Trade, and if made at places where there are no local marine boards, shall be made under the direction of the Board of Trade; and such medical inspectors shall for the purposes of such inspection have the same powers as the inspectors appointed by the Board of Trade under the first part of this Act; but every such inspector, if required by timely notice in writing from the master, owner, or consignee, shall make his inspection three days at least before the ship proceeds to sea, and if the result of the inspection is satisfactory shall not again make inspection before the commencement of the voyage, unless he has reason to suspect that some of the articles inspected have been subsequently removed, injured, or destroyed; and whenever any such medical inspector is of opinion that in any ship hereby required to carry

such articles as aforesaid the same or any of them are deficient in quantity or quality, or are placed in improper vessels, he shall signify the same in writing to the chief officer of Customs of the port where such ship is lying, and also to the master, owner, or consignee thereof, and thereupon the master of such ship, before proceeding to sea, shall produce to such chief officer of Customs a certificate under the hand of such medical inspector, or of some other medical inspector, to the effect that such deficiency has been supplied or remedied, or that such improper vessels have been replaced by proper vessels, as the case may require; and such chief officer of Customs shall not grant a clearance for such ship without the production of such certificate, and if such ship attempts to go to sea without a clearance, may detain her until such certificate is produced; and if such ship proceeds to sea without the production of such certificate, the owner, master, or consignee thereof shall incur a penalty not exceeding twenty pounds.

Provisions, health, and accommodation.

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228. The following rules shall be observed with respect to expenses attendant on illness and death; (that is to say,)

Expense of medical attendance and subsistence in case of illness, and of burial in case of death, how to be defrayed.

(1) If the master or any seaman or apprentice receives any hurt or injury in the service of the ship to which he belongs, the expense of providing the necessary surgical and medical advice, with attendance and medicines, and of his subsistence until he is cured, or dies, or is brought back to some port in the United Kingdom, if shipped in the United Kingdom, or if shipped in some British possession to some port in such possession, and of his conveyance to such port, and the expense (if any) of his burial, shall be defrayed by the owner of such ship, without any deduction on that account from the wages of such master, seaman, or apprentice:

(2) If the master or any seaman or apprentice is on account of any illness temporarily removed from his ship for the purpose of preventing infection, or otherwise for the convenience of the ship, and subsequently returns to his duty, the expense of such removal, and of providing the necessary advice, with attendance and medicines, and of his subsistence whilst away from the ship, shall be defrayed in like manner:

(3) The expense of all medicines and surgical or medical advice and attendance given to any master, seaman, or apprentice whilst on board his ship shall be defrayed in like manner:

(4) In all other cases any reasonable expenses duly incurred by the owner for any seaman in respect of illness, and also any reasonable expenses duly incurred by the owner in respect of the burial of

Provisions, health, and accommodation.

any seaman or apprentice who dies whilst on service, shall, if duly proved, be deducted from the wages of such seaman or apprentice.

Expenses, if paid by consul, to be recoverable from owner.

229. If any such expenses in respect of the illness, injury, or hurt of any seaman or apprentice as are to be borne by the owner are paid by any consular officer or other person on behalf of her Majesty, or if any other expenses in respect of the illness, injury, or hurt of any seaman or apprentice whose wages are not accounted for to such officer under the provisions herein-before contained in that behalf are so paid, such expenses shall be repaid to such officer or other person by the master of the ship, and if not so repaid, the amount thereof, with costs, shall be a charge upon the ship, and be recoverable from the said master, or from the owner of the ship for the time being, as a debt due to her Majesty, and shall be recoverable either by ordinary process of law or in the manner in which seamen are hereby enabled to recover wages; and in any proceeding for the recovery thereof the production of a certificate of the facts, signed by such officer or other person, together with such vouchers (if any) as the case requires, shall be sufficient proof that the said expenses were duly paid by such consular officer or other person as aforesaid.

Certain ships to carry medical practitioners.

230. Every foreign-going ship having one hundred persons or upwards on board shall carry on board as part of her complement some person duly authorized by law to practise as physician, surgeon, or apothecary; and in default the owner shall for every voyage of any such ship made without such medical practitioner incur a penalty not exceeding one hundred pounds: Provided, that nothing herein contained shall in anywise affect any provision contained in the "Passengers Act, 1852," concerning the carriage of medical practitioners by the class of ships therein named passenger ships, nor shall any such passenger ship, if not thereby required to carry a medical practitioner, be hereby required to do so.

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Power of making complaint.

Power of making Complaint.

Seamen to be allowed to go ashore to make complaint to a justice.

232. If any seaman or apprentice whilst on board any ship states to the master that he desires to make complaint to a justice of the peace, or consular officer, or naval officer in command of any of her Majesty's ships, against the master or any of the crew, the said master shall, if the ship is then at a place where there is a justice or any such officer as aforesaid, so soon as the service of the ship will permit, and if the ship is not then at such a place, so soon after her first arrival at such a place as the service of the ship will permit, allow such seaman or apprentice to go ashore, or send him ashore in proper custody, so that he may be enabled to make such complaint, and shall, in default, incur a penalty not exceeding ten pounds.

Protection of Seamen from Imposition.

Protection of seamen from imposition.

Sale of and charge upon wages to be invalid.

233. No wages due or accruing to any seaman or apprentice shall be subject to attachment or arrestment from any court; and every payment of wages to a seaman or apprentice shall be valid in law, notwithstanding any previous sale or assignment of such wages, or of any attachment, incumbrance, or arrestment thereon; and no assignment or sale of such wages, or of salvage, made prior to the accruing thereof, shall bind the party making the same; and no power of attorney or authority for the receipt of any such wages or salvage shall be irrevocable.

No debt exceeding 5s. recoverable till end of voyage.

234. No debt exceeding in amount five shillings, incurred by any seaman after he has engaged to serve, shall be recoverable until the service agreed for is concluded.

Penalty for overcharges by lodging-house keepers.

235. If any person demands or receives from any seaman or apprentice to the sea service payment in respect of his board or lodging in the house of such person for a longer period than such seaman or apprentice has actually resided or boarded therein, he shall incur a penalty not exceeding ten pounds.

Penalty for detaining seamen's effects.

236. If any person receives or takes into his possession or under his control any monies, documents, or effects of any seaman or apprentice to the sea service, and does not return the same or pay the value thereof when required by such seaman or apprentice, subject to such deduction as may be justly due to him from such seaman or apprentice in respect of board or lodging or otherwise, or absconds therewith, he shall incur a penalty not exceeding ten pounds, and any two justices may, besides inflicting such penalty, by summary order direct the amount or value of such monies, documents, or effects, subject to such deduction as aforesaid, to be forthwith paid to such seaman or apprentice.

Persons not to go on board before the final arrival of ship without permission.

237. Every person who, not being in her Majesty's service, and not being duly authorized by law for the purpose, goes on board any ship about to arrive at the place of her destination, before her actual arrival in dock or at the place of her discharge, without the permission of the master, shall for every such offence incur a penalty not exceeding twenty pounds; and the master or person in charge of such ship may take any such person so going on board as aforesaid into custody, and deliver him up forthwith to any constable or peace officer, to be by him taken before a justice or justices, or the sheriff of the county in Scotland, and to be dealt with according to the provisions of this Act.

Penalty for solicitations by lodging-house keepers.

238. If within twenty-four hours after the arrival of any ship at any port in the United Kingdom any person then being on board such ship solicits any

Protection of seamen from imposition.

seaman to become a lodger at the house of any person letting lodgings for hire, or takes out of such ship any effects of any seaman, except under his personal direction and with the permission of the master, he shall for every such offence incur a penalty not exceeding five pounds.

Discipline.

Discipline.

Misconduct endangering ship or life or limb a misdemeanor.

239. Any master of or any seaman or apprentice belonging to any British ship who by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, does any act tending to the immediate loss, destruction, or serious damage of such ship, or tending immediately to endanger the life or limb of any person belonging to or on board of such ship, or who by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him for preserving such ship from immediate loss, destruction, or serious damage, or for preserving any person belonging to or on board of such ship from immediate danger to life or limb, shall for every such offence be deemed guilty of a misdemeanor.

Power of Admiralty courts to remove master.

240. Any court having Admiralty jurisdiction in any of her Majesty's dominions may, upon application by the owner of any ship being within the jurisdiction of such court, or by the part owner or consignee, or by the agent of the owner, or by any certificated mate, or by one third or more of the crew of such ship, and upon proof on oath to the satisfaction of such court that the removal of the master of such ship is necessary, remove him accordingly; and may also, with the consent of the owner or his agent, or the consignee of the ship, or if there is no owner or agent of the owner or consignee of the ship within the jurisdiction of the court, then without such consent, appoint a new master in his stead; and may also make such order, and may require such security in respect of costs in the matter, as it thinks fit.

Power to investigate cases of alleged incompetency and misconduct.

241. If the Board of Trade or any local marine board has reason to believe that any master or mate is from incompetency or misconduct unfit to discharge his duties, the Board of Trade may either institute an investigation or may direct the local marine board at or nearest to the place at which it may be convenient for the parties and witnesses to attend to institute the same, and thereupon such persons as the Board of Trade may appoint for the purpose, or, as the case may be, the local marine board, shall, with the assistance of a local stipendiary magistrate (if any), and if there is no such magistrate, of a competent legal assistant to be appointed by the Board of Trade, conduct the investigation, and may summon the master or mate to appear, and shall give him full opportunity of making a defence either in person or otherwise, and shall for the purpose of such investigation have all the powers given by the

first part of this Act to inspectors appointed by the Board of Trade, and may make such order with respect to the costs of such investigation as they may deem just, and shall on the conclusion of the investigation make a report upon the case to the Board of Trade; and in cases where there is no local marine board before which the parties and witnesses can conveniently attend, or where such local marine board is unwilling to institute the investigation, the Board of Trade may direct the same to be instituted before two justices or a stipendiary magistrate; and thereupon such investigation shall be conducted, and the results thereof reported, in the same manner and with the same powers in and with which formal investigations into wrecks and casualties are directed to be conducted, and the results thereof reported, under the provisions contained in the eighth part of this Act, save only that, if the Board of Trade so directs, the person bringing the charge of incompetency or misconduct to the notice of the Board of Trade shall be deemed to be the party having the conduct of the case.

Discipline.

Board of Trade may cancel or suspend certificates in certain cases.

242. THE Board of Trade may suspend or cancel the certificate (whether of competency or service) of any master or mate in the following cases; (that is to say,)

(1) If upon any investigation made in pursuance of the last preceding section he is reported to be incompetent, or to have been guilty of any gross act of misconduct, drunkenness, or tyranny:

(2) If upon any investigation conducted under the provisions contained in the eighth part of this Act, or upon any investigation made by a naval court constituted as herein-after mentioned, it is reported that the loss or abandonment of or serious damage to any ship, or loss of life, has been caused by his wrongful act or default:

(3) If he is superseded by the order of any Admiralty Court, or of any naval court constituted as herein-after mentioned:

(4) If he is shown to have been convicted of any offence:

(5) If upon any investigation made by any court or tribunal authorized or hereafter to be authorized by the legislative authority in any British possession to make inquiry into charges of incompetency or misconduct on the part of masters or mates of ships, or as to shipwrecks or other casualties affecting ships, a report is made by such court or tribunal to the effect that he has been guilty of any gross act of misconduct, drunkenness, or tyranny, or that the loss or abandonment of or serious damage to any ship, or loss of life, has been caused by his wrongful act or default, and such report is confirmed by the governor or person administering the government of such possession:

Discipline.

And every master or mate whose certificate is cancelled or suspended shall deliver it to the Board of Trade, or as it directs, and in default shall for each offence incur a penalty not exceeding fifty pounds; and the Board of Trade may at any subsequent time grant to any person whose certificate has been cancelled a new certificate, of the same or of any lower grade.

Offences of seamen and apprentices, and their punishments.

243. WHENEVER any seaman who has been lawfully engaged or any apprentice to the sea service commits any of the following offences, he shall be liable to be punished summarily as follows; (that is to say,)

Desertion:

(1) For desertion he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour, and also to forfeit all or any part of the clothes and effects he leaves on board, and all or any part of the wages or emoluments which he has then earned, and also, if such desertion takes place abroad, at the discretion of the court, to forfeit all or any part of the wages or emoluments he may earn in any other ship in which he may be employed until his next return to the United Kingdom, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him:

Neglecting or refusing to join, or to proceed to sea, absence within 24 hours before sailing, and absence without leave:

(2) For neglecting or refusing, without reasonable cause, to join his ship, or to proceed to sea in his ship, or for absence without leave at any time within twenty-four hours of the ship's sailing from any port, either at the commencement or during the progress of any voyage, or for absence at any time without leave, and without sufficient reason, from his ship or from his duty, not amounting to desertion, or not treated as such by the master, he shall be liable to imprisonment for any period not exceeding ten weeks, with or without hard labour, and also, at the discretion of the court, to forfeit out of his wages a sum not exceeding the amount of two days' pay, and in addition for every twenty-four hours of absence either a sum not exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute:

Quitting without leave before ship is secured:

(3) For quitting the ship without leave after her arrival at her port of delivery and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay:

Act of disobedience:

(4) For wilful disobedience to any lawful command he shall be liable to imprisonment for any period not exceeding four weeks, with or without hard labour, and also, at the discretion of the court, to forfeit out of his wages a sum not exceeding two days' pay:

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(5) For continued wilful disobedience to lawful commands, or continued wilful neglect of duty, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour, and also, at the discretion of the court, to forfeit for every twenty-four hours continuance of such disobedience or neglect either a sum not exceeding six days pay, or any expenses which have been properly incurred in hiring a substitute: Continued disobedience:

(6) For assaulting any master or mate he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour: Assault on officers:

(7) For combining with any other or others of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the ship or the progress of the voyage, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour: Combining to disobey

(8) For wilfully damaging the ship, or embezzling or wilfully damaging any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal in amount to the loss thereby sustained, and also, at the discretion of the court, to imprisonment for any period not exceeding twelve weeks, with or without hard labour: Wilful damage and embezzlement:

(9) For any act of smuggling of which he is convicted, and whereby loss or damage is occasioned to the master or owner, he shall be liable to pay to such master or owner such a sum as is sufficient to reimburse the master or owner for such loss or damage; and the whole or a proportionate part of his wages may be retained in satisfaction or on account of such liability, without prejudice to any further remedy. Act of smuggling causing loss to owner.

Entry of offences to be made in official log, and to be read over or a copy given to the offender, and his reply, if any, to be also entered.

244. Upon the commission of any of the offences enumerated in the last preceding section an entry thereof shall be made in the official log book, and shall be signed by the master, and also by the mate or one of the crew; and the offender, if still in the ship, shall before the next subsequent arrival of the ship at any port, or if she is at the time in port, before her departure therefrom, either be furnished with a copy of such entry or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit; and a statement that a copy of the said entry has been so furnished, or that the same has been so read over as aforesaid, and the reply (if any) made by the offender, shall likewise be entered and signed in manner aforesaid; and in any subsequent legal proceeding the entries herein-before required shall, if practicable, be produced or proved, and in default of such

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production or proof the court hearing the case may, at its discretion, refuse to receive evidence of the offence.

Seamen whom masters of ships are compelled to convey, and persons going in ships without leave, to be subject to penalties for breach of discipline.

245. EVERY seafaring person whom the master of any ship is, under the authority of this Act or of any other Act of Parliament, compelled to take on board and convey, and every person who goes to sea in any ship without the consent of the master or owner or other person entitled to give such consent, shall, so long as he remains in such ship, be subject to the same laws and regulations for preserving discipline, and to the same penalties and punishments for offences constituting or tending to a breach of discipline, to which he would be subject if he were a member of the crew and had signed the agreement.

Master or owner may apprehend deserters, without warrant.

246. WHENEVER, either at the commencement or during the progress of any voyage, any seaman or apprentice neglects or refuses to join or deserts from or refuses to proceed to sea in any ship in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave, the master, or any mate, or the owner, ship's husband, or consignee, may, in any place in her Majesty's dominions, with or without the assistance of the local police officers or constables, who are hereby directed to give the same, if required, and also at any place out of her Majesty's dominions, if and so far as the laws in force at such place will permit, apprehend him without first procuring a warrant; and may thereupon in any case, and shall in case he so requires and it is practicable, convey him before some court capable of taking cognizance of the matter, to be dealt with according to law; and may, for the purpose of conveying him before such court, detain him in custody for a period not exceeding twenty-four hours or such shorter time as may be necessary, or may, if he does not so require, or if there is no such court at or near the place, at once convey him on board; and if any such apprehension appears to the court before which the case is brought to have been made on improper or on insufficient grounds, the master, mate, owner, ship's husband, or consignee who makes the same or causes the same to be made shall incur a penalty not exceeding twenty pounds; but such penalty, if inflicted, shall be a bar to any action for false imprisonment in respect of such apprehension.

Deserters may be sent on board in lieu of being imprisoned.

247. WHENEVER any seaman or apprentice is brought before any court on the ground of his having neglected or refused to join or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, such court may, if the master or the owner or his agent so requires, instead of committing the offender to prison, cause him to be conveyed on board for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship, or the owner or his agent, to be by them so conveyed, and may in such case order any costs

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and expenses properly incurred by or on behalf of the master or owner by reason of the offence to be paid by the offender, and, if necessary, to be deducted from any wages which he has then earned, or which by virtue of his then existing engagement he may afterwards earn.

Seamen imprisoned for desertion or breach of discipline may be sent on board before termination of sentence.

248. If any seaman or apprentice is imprisoned on the ground of his having neglected or refused to join or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, or of his having committed any other breach of discipline, and if during such imprisonment and before his engagement is at an end his services are required on board his ship, any justice may, at the request of the master, or of the owner or his agent, cause such seaman or apprentice to be conveyed on board his said ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship, or to the owner or his agent, to be by them so conveyed, notwithstanding that the termination of the period for which he was sentenced to imprisonment has not arrived.

Entries and certificates of desertion abroad to be copied, sent home, and admitted in evidence.

249. In all cases of desertion from any ship in any place abroad the master shall produce the entry of such desertion in the official log book to the person or persons hereby required to indorse on the agreement a certificate of such desertion; and such person or persons shall thereupon make and certify a copy of such entry, and also a copy of the said certificate of desertion; and if such person is a public functionary, he shall, and in other cases the said master shall, forthwith transmit such copies to the Registrar General of Seamen in England; and the said registrar shall, if required, cause the same to be produced in any legal proceeding; and such copies, if purporting to be so made and certified as aforesaid, and certified to have come from the custody of the said registrar, shall in any legal proceeding relating to such desertion be received as evidence of the entries therein appearing.

Facilities for proving desertion, so far as concerns forfeiture of wages.

250. Whenever a question arises whether the wages of any seaman or apprentice are forfeited for desertion, it shall be sufficient for the party insisting on the forfeiture to show that such seaman or apprentice was duly engaged in or that he belonged to the ship from which he is alleged to have deserted, and that he quitted such ship before the completion of the voyage or engagement, or if such voyage was to terminate in the United Kingdom, and the ship has not returned, that he is absent from her, and that an entry of the desertion has been duly made in the official log book; and thereupon the desertion shall, so far as relates to any forfeiture of wages or emoluments under the provisions herein-before contained, be deemed to be proved, unless the seaman or apprentice can produce a proper certificate of discharge, or can otherwise show to the satisfaction of the court that he had sufficient reasons for leaving his ship.

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Costs of procuring imprisonment may to the extent of 3*l.* be deducted from wages.

251. WHENEVER in any proceeding relating to seamen's wages it is shown that any seaman or apprentice has in the course of the voyage been convicted of any offence by any competent tribunal and rightfully punished therefor by imprisonment or otherwise, the court hearing the case may direct a part of the wages due to such seaman, not exceeding three pounds, to be applied in reimbursing any costs properly incurred by the master in procuring such conviction and punishment.

Amount of forfeiture, how to be ascertained, when seamen contract for the voyage.

252. WHENEVER any seaman contracts for wages by the voyage or by the run or by the share, and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Act shall be taken to be an amount bearing the same proportion to the whole wages or share as a calendar month or other the period herein-before mentioned in fixing the amount of such forfeiture (as the case may be) bears to the whole time spent in the voyage; and if the whole time spent in the voyage does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share.

Application of forfeitures.

253. ALL clothes, effects, wages, and emoluments which under the provisions herein-before contained are forfeited for desertion shall be applied in the first instance in or towards the reimbursement of the expenses occasioned by such desertion to the master or owner of the ship from which the desertion has taken place; and may, if earned subsequently to the desertion, be recovered by such master, or by the owner or his agent, in the same manner as the deserter might have recovered the same if they had not been forfeited; and in any legal proceeding relating to such wages the court may order the same to be paid accordingly; and subject to such reimbursement the same shall be paid into the receipt of her Majesty's Exchequer in such manner as the Treasury may direct, and shall be carried to and form part of the Consolidated Fund of the United Kingdom; and in all other cases of forfeiture of wages under the provisions herein-before contained the forfeiture shall, in the absence of any specific directions to the contrary, be for the benefit of the master or owner by whom the wages are payable.

Questions of forfeitures may be decided in suits for wages.

254. ANY question concerning the forfeiture of or deductions from the wages of any seaman or apprentice may be determined in any proceeding lawfully instituted with respect to such wages, notwithstanding that the offence in respect of which such question arises, though hereby made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.

Penalty for false statement as to last ship or name.

255. IF any seaman on or before being engaged wilfully and fraudulently makes a false statement of the name of his last ship or last alleged ship, or wilfully and fraudulently makes a false statement of his own name, he shall

incur a penalty not exceeding five pounds; and such penalty may be deducted from any wages he may earn by virtue of such engagement as aforesaid, and shall, subject to reimbursement of the loss and expenses (if any) occasioned by any previous desertion, be paid and applied in the same manner as other penalties payable under this Act.

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256. WHENEVER any seaman commits an act of misconduct for which his agreement imposes a fine, and which it is intended to punish by enforcing such fine, an entry thereof shall be made in the official log book, and a copy of such entry shall be furnished or the same shall be read over to the offender, and an entry of such reading over, and of the reply (if any) made by the offender, shall be made, in the manner and subject to the conditions hereinbefore specified with respect to the offences against discipline specified in and punishable under this Act; and such fine shall be deducted and paid over as follows; (that is to say,) if the offender is discharged in the United Kingdom, and the offence and such entries in respect thereof as aforesaid are proved, in the case of a foreign-going ship to the satisfaction of the shipping master before whom the offender is discharged, and in the case of a home trade ship to the satisfaction of the shipping master at or nearest to the place at which the crew is discharged, the master or owner shall deduct such fine from the wages of the offender, and pay the same over to such shipping master; and if before the final discharge of the crew in the United Kingdom any such offender as aforesaid enters into any of her Majesty's ships, or is discharged abroad, and the offence and such entries as aforesaid are proved to the satisfaction of the officer in command of the ship into which he so enters, or of the consular officer, officer of Customs, or other person by whose sanction he is so discharged, the fine shall thereupon be deducted as aforesaid, and an entry of such deduction shall then be made in the official log book (if any), and signed by such officer or other person; and on the return of the ship to the United Kingdom the master or owner shall pay over such fine, in the case of foreign-going ships to the shipping master before whom the crew is discharged, and in the case of home trade ships to the shipping master at or nearest to the place at which the crew is discharged; and if any master or owner neglects or refuses to pay over any such fine in manner aforesaid, he shall for each such offence incur a penalty not exceeding six times the amount of the fine retained by him: Provided, that no act of misconduct for which any such fine as aforesaid has been inflicted and paid shall be otherwise punished under the provisions of this Act.

Fines to be deducted from wages, and paid to shipping master.

257. EVERY person who by any means whatever persuades or attempts to persuade any seaman or apprentice to neglect or refuse to join or to proceed to sea in or to desert from his ship, or otherwise to absent himself from his

Penalty for enticing to desert, and harbouring deserters.

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duty, shall for each such offence in respect of each such seaman or apprentice incur a penalty not exceeding ten pounds; and every person who wilfully harbours or secretes any seaman or apprentice who has deserted from his ship, or who has wilfully neglected or refused to join or has deserted from his ship, knowing or having reason to believe such seaman or apprentice to have so done, shall for every such seaman or apprentice so harboured or secreted incur a penalty not exceeding twenty pounds.

Penalty for obtaining passage surreptitiously.

258. Any person who secretes himself and goes to sea in any ship without the consent of either the owner, consignee, or master, or of a mate, or of any person in charge of such ship, or of any other person entitled to give such consent, shall incur a penalty not exceeding twenty pounds, or be liable to imprisonment, with or without hard labour, for any period not exceeding four weeks.

On change of masters, documents hereby required to be handed over to successor.

259. If during the progress of a voyage the master is superseded, or for any other reason quits the ship, and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and to the crew thereof which are in his custody, and shall in default incur a penalty not exceeding one hundred pounds; and such successor shall immediately on assuming the command of the ship enter in the official log a list of the documents so delivered to him.

Naval courts.

Naval Courts on the High Seas and abroad.

Naval courts may be summoned for hearing complaints, and investigating wrecks on the high seas or abroad

260. Any officer in command of any ship of her Majesty on any foreign station, or, in the absence of such officer, any consular officer, may summon a court, to be termed a "Naval Court," in the following cases; (that is to say,)

(1) Whenever a complaint which appears to such officer to require immediate investigation is made to him by the master of any British ship, or by any certificated mate, or by one or more of the seamen belonging to any such ship:

(2) Whenever the interest of the owner of any British ship or of the cargo of any such ship appears to such officer to require it:

(3) Whenever any British ship is wrecked or abandoned or otherwise lost at or near the place where such officer may be, or whenever the crew or part of the crew of any British ship which has been wrecked, abandoned, or lost abroad, arrives at such place.

Constitution of such courts.

261. Every such naval court as aforesaid shall consist of not more than five and not less than three members, of whom, if possible, one shall be an officer in the Naval Service of her Majesty not below the rank of lieutenant, one a consular officer, and one a master of a British merchant ship, and the

rest shall be either officers in the Naval Service of her Majesty, masters of British merchant ships, or British merchants; and such court may include the naval or consular officer summoning the same, but shall not include the master or consignee of the ship to which the parties complaining or complained against may belong; and the naval or consular officer in such court, if there is only one such officer in the court, or, if there is more than one, the naval or consular officer who, according to any regulations for settling their respective ranks for the time being in force, is of the highest rank, shall be the president of such court. *Naval courts.*

262. Every such naval court shall hear and investigate the complaint brought before it, or the cause of the wreck or abandonment, (as the case may be,) and may for that purpose summon and compel the attendance of parties and witnesses, and administer oaths, and order the production of documents, and shall conduct the investigation in such manner as to give any person against whom any charge is made an opportunity of making a defence. General functions and mode of action of such courts.

263. Every such naval court may, after hearing the case, exercise the following powers; (that is to say,) Powers of such courts

(1) It may, if unanimous that the safety of the ship or crew, or the interest of the owner, absolutely requires it, supersede the master, and may appoint another person to act in his stead; but no such appointment shall be made without the consent of the consignee of the ship, if then at the place: To supersede the master.

(2) It may discharge any seaman from his ship: To discharge a seaman:

(3) In may order the wages of any seaman so discharged or any part of such wages to be forfeited, and may direct the same either to be retained by way of compensation to the owner, or to be paid into the receipt of her Majesty's Exchequer in the same manner as other penalties and forfeitures under this Act: To forfeit wages:

(4) It may decide any questions as to wages, or fines, or forfeitures, arising between any of the parties to the proceedings: To decide disputes as to wages, &c.:

(5) It may direct that all or any of the costs incurred by the master or owner of any ship in procuring the imprisonment of any seaman or apprentice in a foreign port, or in his maintenance whilst so imprisoned, shall be paid out of and deducted from the wages of such seaman or apprentice, whether then or subsequently earned: To direct costs of imprisonment to be paid out of wages.

(6) It may exercise the same powers with regard to persons charged before it with the commission of offences at sea or abroad as are by this Act given to British consular officers: To send home offenders for trial

(7) It may order the costs of the proceeding before it (if any), or any portion thereof, to be paid by any of the parties thereto, and To order payment of costs, &c.

Crimes committed abroad.

And any such master as aforesaid who when required by any British consular officer to receive and afford a passage and subsistence to any offender or witness does not receive him and afford such passage and subsistence to him, or who does not deliver any offender committed to his charge into the custody of some police officer or constable as herein-before directed, shall for each such offence incur a penalty not exceeding fifty pounds; and the expense of imprisoning any such offender, and of conveying him and the witnesses to the United Kingdom, or to such British possession as aforesaid, in any manner other than in the ship to which they respectively belong, shall be part of the costs of the prosecution, or be paid as costs incurred on account of seafaring subjects of her Majesty left in distress in foreign parts.

Inquiry into cause of death on board.

269. WHENEVER any case of death happens on board any foreign-going ship, the shipping master shall on the arrival of such ship at the port where the crew is discharged inquire into the cause of such death, and shall make on the list of the crew delivered to him as herein required an indorsement to the effect either that the statement of the cause of death therein contained is in his opinion true, or otherwise, as the result of the inquiry requires; and every such shipping master shall for the purpose of such inquiry have the powers hereby given to inspectors appointed by the Board of Trade under the first part of this Act; and if in the course of such inquiry it appears to him that any such death as aforesaid has been caused by violence or other improper means, he shall either report the matter to the Board of Trade, or, if the emergency of the case so requires, shall take immediate steps for bringing the offender or offenders to justice.

Depositions to be received in evidence when witness cannot be produced.

270. WHENEVER in the course of any legal proceedings instituted in any part of her Majesty's dominions before any judge or magistrate, or before any person authorized by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject matter of such proceeding, then upon due proof, if such proceeding is instituted in the United Kingdom, that such witness cannot be found in that Kingdom, or if in any British possession, that he cannot be found in the same possession, any deposition that such witness may have previously made on oath in relation to the same subject matter before any justice or magistrate in her Majesty's dominions, or any British consular officer elsewhere, shall be admissible in evidence, subject to the following restrictions; (that is to say,)

(1) If such deposition was made in the United Kingdom, it shall not be admissible in any proceeding instituted in the United Kingdom:

(2) If such a deposition was made in any British possession, it shall not be admissible in any proceeding instituted in the same British possession:

(3) If the proceeding is criminal, it shall not be admissible unless it was made in the presence of the person accused: *Crimes committed abroad.*

Every deposition so made as aforesaid shall be authenticated by the signature of the judge, magistrate, or consular officer before whom the same is made; and such judge, magistrate, or consular officer shall, when the same is taken in a criminal matter, certify, if the fact is so, and that the accused was present at the taking thereof, but it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and in any criminal proceeding such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified; but nothing herein contained shall affect any case in which depositions taken in any proceeding are rendered admissible in evidence by any Act of Parliament, or by any Act or ordinance of the legislature of any colony, so far as regards such colony, or to interfere with the power of any colonial legislature to make such depositions admissible in evidence, or to interfere with the practice of any court in which depositions not authenticated as herein-before mentioned are admissible.

Registration and returns respecting seamen.

Registration of and Returns respecting Seamen.

271. There shall be in the Port of London an office, to be called the "General Register and Record Office of Seamen"; and the Board of Trade shall have control over the same, and may appoint and from time to time remove a Registrar General, and such assistants, clerks, and servants as may be necessary, and may from time to time, with the consent of the Treasury, regulate their salaries and allowances; and such salaries and allowances, and all other necessary expenses, shall be paid by the Treasury out of any monies to be granted by Parliament for that purpose; and the Board of Trade may direct the business of the register office at any of the outports to be transacted at the shipping office, or, with the consent of the Commissioners of Customs, at the custom house of the port, and may appoint the shipping master, or, with such consent as aforesaid, some officer of Customs, to conduct the same; and such business shall thereupon be conducted accordingly, but shall in all cases be subject to the immediate control of the Board of Trade. Establishment of Register Office.

272. The said Registrar General of Seamen shall, by means of the agreements, lists, and other papers to be transmitted to him as herein directed, or by such other means as are in his power, keep a register of all persons who serve in ships subject to the provisions of this Act. Register of seamen to be kept.

[273.[a]] Every master of every foreign-going ship of which the crew is Lists to be

[[a] Section 273 is repealed, so far as it relates to the entry of any birth or death, 37 & 38 Vict., c. 88 s. 54.]

Registration and returns respecting seamen.

made for all ships, containing certain particulars.

discharged in the United Kingdom, in whatever part of her Majesty's dominions the same is registered, and of every home trade ship, shall make out and sign a list in a form sanctioned by the Board of Trade, containing the following particulars; (that is to say,)

(1) The number and date of the ship's register, and her registered tonnage:

(2) The length and general nature of the voyage or employment:

(3) The christian names, surnames, ages, and places of birth of all the crew, including the master and apprentices; their qualities on board, their last ships or other employments, and the dates and places of their joining the ship:

(4) The names of any members of the crew who have died or otherwise ceased to belong to the ship, with the times, places, causes, and circumstances thereof:

(5) The names of any members of the crew who have been maimed or hurt, with the times, places, causes, and circumstances thereof:

(6) The wages due to any of the crew who have died, at the times of their respective deaths:

(7) The clothes and other effects belonging to any of the crew who have died, with a statement of the manner in which they have been dealt with, and the money for which any of them have been sold:

(8) The name, age, and sex of every person, not being one of the crew, who dies on board, with the date and the cause thereof:

(9) Every birth which happens on board, with the date thereof, the sex of the infant, and the names of the parents:

(10) Every marriage which takes place on board, with the date thereof, and the names and ages of the parties.

Lists for foreign-going ships to be delivered to shipping master on arrival.

274. In the case of foreign-going ships the master shall within forty-eight hours after the ship's arrival at her final port of destination in the United Kingdom, or upon the discharge of the crew, whichever first happens, deliver to the shipping master before whom the crew is discharged such list as herein-before required, and if he fails so to do shall for every default incur a penalty not exceeding five pounds; and such shipping master shall thereupon give to the master a certificate of such delivery; and no officer of Customs shall clear inwards any foreign-going ship without the production of such certificate, and any such officer may detain any such ship until the same is produced.

Lists to be delivered by home trade ships half-yearly.

275. The master or owner of every home trade ship shall within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year transmit or deliver to some shipping master in the United Kingdom such list as herein-before required for the preceding half year, and

shall in default incur a penalty not exceeding five pounds; and such shipping master shall give to the master or owner a certificate of such transmission or delivery; and no officer of Customs shall grant a clearance or transire for any home trade ship without the production of such certificate, and any such officer may detain any such ship until the same is produced.

Registration and returns respecting seamen.

276. If any ship ceases by reason of transfer of ownership or change of employment to fall within the definition of a foreign-going or of a home trade ship, the master or owner thereof shall, if such ship is then in the United Kingdom, within one month, and if she is elsewhere, within six months, deliver or transmit to the shipping master at the port to which the ship has belonged such list as herein-before mentioned, duly made out to the time at which she ceased to be a foreign-going or home trade ship, and in default shall for each offence incur a penalty not exceeding ten pounds; and if any ship is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the shipping master at the port to which the ship belonged such list as herein-before mentioned, duly made out to the time of such loss or abandonment, and in default shall for each offence incur a penalty not exceeding ten pounds.

Lists to be sent home in case of transfer of ship, and in case of loss.

277. All shipping masters and officers of Customs shall take charge of all documents which are delivered or transmitted to or retained by them in pursuance of this Act, and shall keep them for such time (if any) as may be necessary for the purpose of settling any business arising at the place where such documents come into their hands, or for any other proper purpose, and shall, if required, produce them for any of such purposes, and shall then transmit them to the Registrar General of Seamen, to be by him recorded and preserved; and the said Registrar shall on payment of a moderate fee, to be fixed by the Board of Trade, or without payment of any fee, if the Board of Trade so directs, allow any person to inspect the same; and in cases in which the production of the original of any such document in any court of justice or elsewhere is essential shall produce the same, and in other cases shall make and deliver to any person requiring it a certified copy of any such document or of any part thereof; and every copy purporting to be so made and certified shall be received in evidence, and shall have all the effect of the original of which it purports to be a copy.

Shipping masters and other officers to transmit documents to Registrar.

Registrar to permit inspection, to produce originals, and give copies.

278. The collector or comptroller of Customs at every port in the United Kingdom shall on or before the first day of February and the first day of August in every year transmit to the Registrar General of Seamen a list of all ships registered in such port, and also of all ships whose registers have been transferred or cancelled in such port since the last preceding return.

Officers of Customs to make returns of ships to Registrar.

Registration and returns respecting seamen.

Agreements, indentures, and assignments, on arrival at a foreign port to be deposited with the consul, and at a colony with the officers of Customs.

279. The following rules shall be observed with respect to the delivery of documents to British consular officers; (that is to say,)

(1) Whenever any ship, in whatever part of her Majesty's dominions the same is registered, (except ships whose business for the time being is to carry passengers,) arrives at any foreign port where there is a British consular officer, or at any port in any British possession abroad, and remains thereat for forty-eight hours, the master shall within forty-eight hours of the ship's arrival deliver to such consular officer, or to the chief officer of customs, (as the case may be,) the agreement with the crew, and also all indentures and assignments of apprenticeships, or, in the case of a ship belonging to a British possession, such of the said documents as such ship is provided with:

(2) Such officer shall keep such documents during the ship's stay in such port, and in cases where any indorsements upon the agreement are hereby required shall duly make the same, and shall return the said documents to the master a reasonable time before his departure, with a certificate indorsed on the agreement, stating when the same were respectively delivered and returned:

(3) If it appears that the required forms have been neglected, or that the existing laws have been transgressed, such officer shall make an indorsement to that effect on the agreement, and forthwith transmit a copy of such indorsement, with the fullest information he can collect regarding such neglect or transgression, to the Registrar General of Seamen:

And if any master fails to deliver any such document as aforesaid, he shall for every such default incur a penalty not exceeding twenty pounds; and in any prosecution for such penalty it shall lie upon the master either to produce the certificate of the consular officer or officer of Customs herein-before required, or to prove that he duly obtained the same, or that it was impracticable for him so to do.

Official logs.

Official logs to be kept in forms sanctioned by Board of Trade.

Official Logs.

280. The Board of Trade shall sanction forms of official log books, which may be different for different classes of ships, so that each such form contains blanks for the entries herein-after required; and an official log of every ship (except ships employed exclusively in trading between ports on the coasts of the United Kingdom) shall be kept in the appropriate sanctioned form; and such official log may, at the discretion of the master or owner, either be kept distinct from the ordinary ship's log or united therewith, so that in all cases all the blanks in the official log be duly filled up.

Official logs.

Entries to be made in due time.

281. Every entry in every official log shall be made as soon as possible after the occurrence to which it relates, and if not made on the same day as the occurrence to which it relates, shall be made and dated so as to show the date of the occurrence, and of the entry respecting it; and in no case shall any entry therein in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge be made more than twenty-four hours after such arrival.

Entries required in official log.

[282.[a]] Every master of a ship for which an official log book is hereby required shall make or cause to be made therein entries of the following matters; (that is to say,)

Convictions.

(1) Every legal conviction of any member of his crew, and the punishment inflicted:

Offences.

(2) Every offence committed by any member of his crew for which it is intended to prosecute, or to enforce a forfeiture, or to exact a fine, together with such statement concerning the reading over such entry, and concerning the reply (if any) made to the charge, as herein-before required:

Punishments.

(3) Every offence for which punishment is inflicted on board, and the punishment inflicted:

Conduct, &c., of crew.

(4) A statement of the conduct, character, and qualifications of each of his crew, or a statement that he declines to give an opinion on such particulars:

Illnesses and injuries.

(5) Every case of illness or injury happening to any member of the crew, with the nature thereof, and the medical treatment adopted (if any):

Deaths.

(6) Every case of death happening on board, and of the cause thereof:

Births.

(7) Every birth happening on board, with the sex of the infant and the names of the parents:

Marriages.

(8) Every marriage taking place on board, with the names and ages of the parties:

Quitting ship.

(9) The name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death, with the place, time, manner, and cause thereof:

Wages of men entering navy.

(10) The amount of wages due to any seaman who enters her Majesty's service during the voyage:

Wages of deceased seamen.

(11) The wages due to any seaman or apprentice who dies during the voyage, and the gross amount of all deductions to be made therefrom:

[[a] Section 282 is repealed, so far as it relates to the entry of any birth or death, 37 & 38 Vict., c. 88, s. 54.]

Official logs.

Sale of deceased men's effects.

(12) The sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold, and of the sum received for it:

Collisions.

(13) Every collision with any other ship, and the circumstances under which the same occurred.

Entries, how to be signed.

283. The entries hereby required to be made in official log books shall be signed as follows; that is to say, every such entry shall be signed by the master, and by the mate or some other of the crew; and every entry of illness, injury, or death shall be also signed by the surgeon or medical practitioner on board (if any); and every entry of wages due to or of the sale of the effects of any seaman or apprentice who dies shall be signed by the master, and by the mate and some other member of the crew; and every entry of wages due to any seaman who enters her Majesty's service shall be signed by the master, and by the seaman or by the officer authorized to receive the seaman into such service.

Penalties in respect of official logs.

284. The following offences in respect of official log books shall be punishable as herein-after mentioned; (that is to say,)

(1) If in any case an official log book is not kept in the manner hereby required, or if any entry hereby directed to be made in any such log book is not made at the time and in the manner hereby directed, the master shall for each such offence incur the specific penalty herein mentioned in respect thereof, or where there is no such specific penalty, a penalty not exceeding five pounds:

(2) Every person who makes or procures to be made or assists in making any entry in any official log book in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge more than twenty-four hours after such arrival, shall for each such offence incur a penalty not exceeding thirty pounds:

(3) Every person who wilfully destroys or mutilates or renders illegible any entry in any official log book, or who wilfully makes or procures to be made or assists in making any false or fraudulent entry or omission in any such log book, shall for each such offence be deemed guilty of a misdemeanor.

Entries in official logs to be received in evidence.

285. All entries made in any official log book as herein-before directed shall be received in evidence in any proceeding in any court of justice, subject to all just exceptions.

Official logs to be delivered to shipping master.

286. In the case of foreign-going ships the master shall within forty-eight hours after the ship's arrival at her final port of destination in the United Kingdom, or upon the discharge of the crew, whichever first happens, deliver to the shipping master before whom the crew is discharged the official log

book of the voyage; and the master or owner of every home trade ship not exclusively employed in trading between ports on the coasts in the United Kingdom shall within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year transmit or deliver to some shipping master in the United Kingdom the official log book for the preceding half year; and every master or owner who refuses or neglects to deliver his official log book as hereby required shall be subject to the same consequences and liabilities to which he is hereby made subject for the non-delivery of the list of his crew herein-before mentioned.

Official logs.

287. If any ship ceases by reason of transfer of ownership or change of employment to fall within the definition of a foreign-going or of a home trade ship, the master or owner thereof shall, if such ship is then in the United Kingdom, within one month, and if she is elsewhere, within six months, deliver or transmit to the shipping master at the port to which the ship belonged the official log book (if any), duly made out to the time at which she ceased to be a foreign-going or home trade ship, and in default shall for each offence incur a penalty not exceeding ten pounds; and if any ship is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the shipping master at the port to which the ship belonged the official log book (if any), duly made out to the time of such loss or abandonment, and in default shall for each offence incur a penalty not exceeding ten pounds.

Official logs be sent home in case of transfer of ship, and in case of loss.

East Indies and Colonies.

East Indies and colonies.

288. If the Governor General of India in Council, or the respective legislative authorities in any British possession abroad, by any Acts, ordinances, or other appropriate legal means, apply or adapt any of the provisions in the third part of this Act contained to any British ships registered at, trading with, or being at any place within their respective jurisdictions, and to the owners, masters, mates, and crews thereof, such provisions, when so applied and adapted as aforesaid, and as long as they remain in force, shall in respect of the ships and persons to which the same are applied be enforced, and penalties and punishments for the breach thereof shall be recovered and inflicted, throughout her Majesty's dominions, in the same manner as if such provisions had been hereby so adopted and applied, and such penalties and punishments had been hereby expressly imposed.

Provisions of third part of Act, as applied by East Indian and colonial governments to their own ships, may be enforced throughout the Empire.

289. Every Act, ordinance, or other form of law to be passed or promulgated by the Governor General of India in Council, or by any other legislative authority, in pursuance of this Act, shall respectively be subject to the same right of disallowance or repeal, and require the same sanction or other acts

East Indian and colonial Acts to be subject to disallowance, and require sanction, as in other cases.

East Indies and colonies.

and formalities, and be subject to the same conditions in all respects, as exist and are required in order to the validity of any other Act, ordinance, or other form of law passed by such Governor General in Council or other legislative authority respectively.

Conflict of laws.

290. If in any matter relating to any ship, or to any person belonging to any ship, there appears to be a conflict of laws, then if there is in the third part of this Act any provision on the subject which is hereby expressly made to extend to such ship the case shall be governed by such provision, and if there is no such provision the case shall be governed by the law of the place in which such ship is registered.

Part IV.

Safety and Prevention of Accidents.

Application

Application of part IV. of Act.

Application.

291. The fourth part of this Act shall apply to all British ships; and all foreign steam ships carrying passengers between places in the United Kingdom shall be subject to all the provisions contained in the fourth part of this Act, and likewise to the same provisions with respect to the certificates of the masters and mates thereof to which British steam ships are subject.

Boats for sea-going ships.

Rules as to boats and life buoys.

Boats for Sea-going Ships.

292. The following rules shall be observed with respect to boats and life buoys; (that is to say,)

(1) No decked ship (except ships used solely as steam tugs, and ships engaged in the whale fishery,) shall proceed to sea from any place in the United Kingdom, unless she is provided, according to her tonnage, with boats duly supplied with all requisites for use, and not being fewer in number nor less in their cubic contents than the boats the number and cubic contents of which are specified in the table marked S. in the schedule hereto for the class to which such ship belongs:

(2) No ship carrying more than ten passengers shall proceed to sea from any place in the United Kingdom, unless, in addition to the boats herein-before required, she is also provided with a life boat furnished with all requisites for use, or unless one of her boats

herein before required is rendered buoyant after the manner of a life boat:

Boats for sea-going ships.

(3) No such ship as last aforesaid shall proceed to sea unless she is also provided with two life buoys:

And such boats and life buoys shall be kept so as to be at all times fit and ready for use: Provided, that the enactments with respect to boats and life buoys herein contained shall not apply in any case in which a certificate has been duly obtained under the tenth section of the "Passengers Act, "1852." [a]

15 & 16 Vict. c. 44. s. 10.

293. In any of the following cases; (that is to say,)

Penalties on masters and owners, &c. neglecting to provide boats and life buoys.

(1) If any ship herein-before required to be provided with boats or life buoys proceeds to sea without being so provided therewith, or if any of such boats or life buoys are lost or rendered unfit for service in the course of the voyage through the wilful fault or negligence of the owner or master; or

(2) If, in case of any of such boats or life buoys being accidentally lost or injured in the course of the voyage, the master wilfully neglects to replace or repair the same on the first opportunity; or

(3) If such boats and life buoys are not kept so as to be at all times fit and ready for use;

Then if the owner appears to be in fault he shall incur a penalty not exceeding one hundred pounds, and if the master appears to be in fault he shall incur a penalty not exceeding fifty pounds.

294. No officer of Customs shall grant a clearance or transire for any ship herein-before required to be provided with boats or with life buoys unless the same is duly so provided; and if any such ship attempts to go to sea without such clearance or transire, any such officer may detain her until she is so provided.

Officers of Customs not to clear ships not complying with the above provisions.

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Build and Equipment of Steam Ships.

Build and equipment of steam ships.

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301. Steam ships shall be provided as follows; (that is to say,)

Equipment of steam ships.

[a Section 10 of the Act, 15 & 16 Vict. c. 44, which is repealed, 18 & 19 Vict. c. 119. s. 1., was as follows:

No ship fitted or intended for the carriage of passengers as a "passenger ship" shall clear out or proceed to sea until the master thereof shall have obtained from the emigration officer at the port of clearance a certificate under his hand that all the requirements of this Act, so far as the same can be complied with before the departure of such ship, have been duly complied with, nor until the master shall have joined in executing such bond to the Crown as required by the fifty-ninth section of this Act.]

Build and equipment of steam ships.

Safety valve.

(1) Every steam ship of which a survey is hereby required shall be provided with a safety valve upon each boiler, so constructed as to be out of the control of the engineer when the steam is up, and if such valve is in addition to the ordinary valve, it shall be so constructed as to have an area not less and a pressure not greater than the area of and pressure on that valve:

Compasses to be adjusted.

(2) Every sea-going steam ship employed to carry passengers shall have her compasses properly adjusted from time to time; such adjustment, in the case of ships surveyed as herein-after mentioned, to be made to the satisfaction of the shipwright surveyor, and according to such regulations as may be issued by the Board of Trade:

Fire hose.

(3) Every sea-going steam ship (unless used solely as a steam tug) shall be provided with a hose adapted for the purpose of extinguishing fire in any part of the ship, and capable of being connected with the engines of the ship:

. . . . . .

Shelter for deck passengers.

(5) Every home trade steam ship employed to carry passengers by sea shall be provided with such shelter for the protection of deck passengers (if any) as the Board of Trade, having regard to the nature of the passage, the number of deck passengers to be carried, the season of the year, the safety of the ship, and the circumstances of the case, may require:

And if any steam ship as aforesaid plies or goes to sea from any port in the United Kingdom without being so provided as herein-before required, then for each default in any of the above requisites the owner shall (if he appears to be in fault) incur a penalty not exceeding one hundred pounds, and the master shall (if he appears to be in fault) incur a penalty not exceeding fifty pounds.

Penalty for improper weight on safety valve.

302. If any person places an undue weight on the safety valve of any steam ship, or, in the case of steam ships surveyed as herein-after mentioned, increases such weight beyond the limits fixed by such engineer surveyor as herein-after mentioned, he shall, in addition to any other liabilities he may incur by so doing, incur a penalty not exceeding one hundred pounds.

Survey of passenger steamers.

Survey of Passenger Steamers.

Definition of "passengers" and "passenger steamer."

303. For the purpose of the enactments herein contained with respect to surveys and certificates of passenger steam ships, the word "passengers" shall be held to include any persons carried in a steam ship, other than the master and crew, and the owner, his family and servants; and the expression "passenger steamer" shall be held to include every British steam ship

carrying passengers to, from, or between any place or places in the United Kingdom, excepting steam ferry boats working in chains, commonly called steam bridges.

Survey of passenger steamers.

304. Every passenger steamer shall be surveyed twice at the least in each year in manner herein-after mentioned [Repealed, 35 & 36 c. 73. s. 8].

Passenger steamers to be surveyed.

305. The Board of Trade may from time to time appoint such number of fit and proper persons to be shipwright surveyors and engineer surveyors for the purposes of this Act at such ports or places as it thinks proper, and may also appoint a Surveyor General for the United Kingdom, and may from time to time remove such surveyors or any of them, and may from time to time fix and alter the rates of remuneration to be received by such surveyors.

Board of Trade to appoint surveyors, and fix their remuneration.

306. It shall be lawful for the said surveyors in the execution of their duties to go on board any steam ship at all reasonable times, and to inspect the same or any part thereof, or any of the machinery, boats, equipments, or articles on board thereof, or any certificates of the master or mate to which the provisions of this Act or any of the regulations to be made by virtue thereof apply, not unnecessarily detaining or delaying the ship from proceeding on any voyage, and if in consequence of any accident to any such ship, or for any other reason, they consider it necessary so to do, to require the ship to be taken into dock for the purpose of surveying the hull thereof; and any person who hinders any such surveyor from going on board any such steam ship, or otherwise impedes him in the execution of his duty under this Act, shall incur a penalty not exceeding five pounds.

Surveyors to have power to inspect.

307. The said surveyors shall execute their duties under the direction of the Board of Trade, and such Board shall make regulations as to the manner in which the surveys herein-after mentioned shall be made, and as to the notice to be given to the surveyors when surveys are required, and as to the amount and payment of any travelling or other expenses incurred by such surveyors in the execution of their duties, and may thereby determine the persons by whom and the conditions under which such payment shall be made.

Board of Trade to regulate mode of making surveys.

308. Every surveyor who demands or receives directly or indirectly from the owner or master of any ship surveyed by him under the provisions of this Act any fee or remuneration whatsoever for or in respect of such survey, otherwise than as the officer and by the direction of the Board of Trade, shall incur a penalty not exceeding fifty pounds.

Penalty on surveyors receiving fees unlawfully.

309. The owner of every passenger steamer shall cause the same to be surveyed at the times herein-after directed by one of the said shipwright surveyors and by one of the said engineer surveyors so appointed as aforesaid; such shipwright surveyor being, in the case of iron steamers, a person who is

Owners to have surveys made by shipwright and engineer surveyors, and surveyors to give declarations.

Survey of passenger steamers.

in the judgment of the Board of Trade properly qualified to survey such ships; and such surveyors shall thereupon, if satisfied that they can with propriety do so, give to such owner declarations as follows:

The declaration of the shipwright surveyor shall contain statements of the following particulars; (that is to say,)

(1) That the hull of the ship is sufficient for the service intended, and in good condition:

(2) That the partitions, boats, life buoys, lights, signals, compasses, and shelter for deck passengers, and the certificates of the master and mate or mates, are such and in such condition as required by this Act:

(3) The time (if less than six months) for which the said hull and equipments will be sufficient:

(4) The limits (if any) beyond which, as regards the hull and equipments, the ship is in the surveyor's judgment not fit to ply:

(5) The number of passengers which the ship is in the judgment of the surveyor fit to carry, distinguishing, if necessary, between the respective numbers to be carried on the deck and in the cabins, and in different parts of the deck and cabins; such numbers to be subject to such conditions and variations, according to the time of year, the nature of the voyage, the cargo carried, or other circumstances, as the case requires:

And the declaration of the engineer surveyor shall contain statements of the following particulars; (that is to say,)

(1) That the machinery of the ship is sufficient for the service intended, and in good condition:

(2) The time (if less than six months) for which such machinery will be sufficient:

(3) That the safety valves and fire hose are such and in such condition as are required by this Act:

(4) The limits of the weight to be placed on the safety valves:

(5) The limits (if any) beyond which, as regards the machinery, the ship is in the surveyor's judgment not fit to ply:

And such declarations shall be in such form as the Board of Trade directs.

Transmission of declarations to Board of Trade. Penalty for delay.

310. The said owner shall transmit such declarations to the Board of Trade within fourteen days after the dates of the receipt thereof respectively; and in default shall forfeit a sum not exceeding ten shillings for every day that the sending of such declarations is delayed; and such sum shall be paid upon the delivery of the certificate herein-after mentioned, in addition to the fee payable for the same, and shall be applied in the same manner as such fees.

Survey of passenger steamers.

Times appointed for surveys and transmission of declarations.

311. In all cases where it is possible the said half-yearly surveys shall be made in the months of April and of October, and the declarations shall be transmitted on or before the thirtieth day of April and the thirty-first day of October respectively; but if the owner of any passenger steamer is unable to have the same surveyed in the month of April or October, (as the case may be,) either by reason of such ship being absent from the United Kingdom during the whole of those periods respectively, or by reason of such ship or the machinery thereof being under construction or repair, or of such ship being laid up in dock, or for any other reason satisfactory to the Board of Trade, then he shall have the same surveyed as aforesaid as soon thereafter as possible, and shall transmit such declarations to the Board of Trade within fourteen days after the receipt thereof, together with a statement of the reasons which have prevented the survey of such ship at the time hereinbefore prescribed, and shall, in case of delay in transmitting the declarations, be liable to a forfeiture similar to that mentioned in the last preceding section.

Board of Trade to issue certificate.

312. Upon the receipt of such declarations the Board of Trade shall, if satisfied that the provisions of the fourth part of this Act have been complied with, cause a certificate in duplicate to be prepared and issued, to the effect that the provisions of the law with respect to the survey of the ship and the transmission of declarations in respect thereof have been complied with; and such certificate shall state the limits (if any) beyond which, according to the declaration of the surveyors, such ship is not fit to ply, and shall also contain a statement of the number of passengers which, according to the declaration of the shipwright surveyor, such ship is fit to carry, distinguishing (if necessary) between the respective numbers to be carried on the deck and in the cabins, and in different parts of the deck and cabins, such number to be subject to such conditions and variations according to the time of year, the nature of the voyage, the cargo carried, and other circumstances, as the case requires.

Issue and transmission of certificates.

313. The Board of Trade shall transmit such duplicate certificate to the shipping master or to some other public officer at such port as the owner may mention for the purpose, or at the port where the owner or his agent resides, or where the ship was surveyed and is for the time being lying, and shall cause notice of such transmission to be given by post or otherwise to the master or owner, or his agent; and the said shipping master or officer shall deliver such duplicate certificate to the said owner, master, or agent, on his applying and paying the fees and other sums (if any) herein mentioned as payable in that behalf; and in proving the due issue and transmission to the owner, agent, or master of such certificate, it shall be sufficient to show that

Survey of passenger steamers.

the same has been duly received by such shipping master or public officer as aforesaid, and that due notice of the transmission thereof to such shipping master or officer has been given to such owner, master, or agent.

Fees to be paid for certificates.

314. The owner of every passenger steamer requiring a certificate under the fourth part of this Act shall pay for every certificate granted by the Board of Trade such fees as such Board directs, not exceeding the fees mentioned in the table marked T. in the schedule hereto.

How long certificates to continue in force.

315. No certificate shall be held to be in force for the purposes of the fourth part of this Act beyond the date fixed by the Board of Trade for the expiration thereof; and no certificate shall be in force after notice is given by the Board of Trade to the owner, agent, or master of the ship to which the same relates, that such Board has cancelled or revoked the same: Provided, that if any passenger steamer is absent from the United Kingdom at the time when her certificate expires, no penalty shall be incurred for the want of a certificate until she first begins to ply with passengers after her next subsequent return to the United Kingdom; and the Board of Trade may require any certificate which has expired, or has been revoked or cancelled, to be delivered up as it directs; and any owner or master who without reasonable cause neglects or refuses to comply with such requirement shall incur a penalty not exceeding ten pounds.

Board of Trade may cancel certificates, and require fresh declarations.

316. The Board of Trade may revoke and cancel such certificates in any case in which it has reason to believe,—

(1) That the declarations of the sufficiency and good condition of the hull, equipments, and machinery of any passenger steamer, or either of them, have been fraudulently or erroneously made; or

(2) That such certificate has otherwise been issued upon false or erroneous information; or

(3) That since the making of such declarations the hull, equipments, or machinery of such ship have sustained any injury, or are otherwise insufficient:

And in every such case the Board of Trade may, if it thinks fit, require the owner to have the hull, equipments, or machinery of such ship again surveyed, and to transmit a further declaration or declarations of the sufficiency and good condition thereof, before re-issuing any certificate or granting a fresh one in lieu thereof.

Copy of certificate to be placed in conspicuous part of ship.

317. The owner or master of every passenger steamer shall forthwith on the transmission of any such certificate as aforesaid to him or his agent cause one of the duplicates thereof so transmitted to be put up in some conspicuous part of the ship, so as to be visible to all persons on board the same, and shall cause it be continued so put up so long as such certificate remains in force

and such ship is in use; and in default such owner or master shall for every offence incur a penalty not exceeding ten pounds.

Survey of passenger steamers.

Ship not to proceed on her voyage without certificate.

318. It shall not be lawful for any passenger steamer to proceed to sea or upon any voyage or excursion with any passengers on board, unless the owner thereof has transmitted to the Board of Trade the declarations herein-before required, nor [Repealed, 39 & 40 Vict. 80. s. 45] unless the owner or master thereof has received from such Board such a certificate as herein-before provided for, such certificate being a certificate applicable to the voyage or excursion on which such ship is about to proceed; and no officer of Customs shall grant any clearance or transire for any passenger steamer unless upon the production of such certificate as aforesaid (being a certificate then in force and applicable as aforesaid); and if any passenger steamer attempts to ply or go to sea without such production, any such officer may detain her until such certificate is produced; and if any passenger steamer plies or goes to sea with any passengers on board, without having one of the duplicates of such certificate as aforesaid (being a certificate then in force, and applicable as aforesaid,) so put up as aforesaid in some conspicuous part of the ship, the owner thereof shall for such offence incur a penalty not exceeding one hundred pounds, and the master of such ship shall also incur a further penalty not exceeding twenty pounds.

Penalty for carrying passengers in excess of numbers specified in certificate.

319. If the owner or master or other person in charge of any passenger steamer receives on board thereof or on or in any part thereof, or if such ship has on board thereof or on or in any part thereof, any number of passengers which, having regard to the time, occasion, and circumstances of the case, is greater than the number of passengers allowed by the certificate, the owner or master shall incur a penalty not exceeding twenty pounds, and also an additional penalty not exceeding five shillings for every passenger over and above the number allowed by the certificate, or if the fare of any of the passengers on board exceeds five shillings, not exceeding double the amount of the fares of all the passengers who are over and above the number so allowed as aforesaid, such fares to be estimated at the highest rate of fare payable by any passenger on board.

Forgery of declaration or certificate a misdemeanor.

320. Every person who knowingly and wilfully makes or assists in making or procures to be made a false or fraudulent declaration or certificate with respect to any passenger steamer requiring a certificate under the fourth part of this Act, or who forges, assist in forging, or procures to be forged, fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any declaration or certificate required by the fourth part of this Act, or any words or figures in any such declaration or certificate, or any signature thereto, shall be deemed guilty of a misdemeanor.

Survey of passenger steamers.

Surveyors to make returns of the build and other particulars of steam ships, and owners and masters to give information for that purpose.

321. The said surveyors shall from time to time make such returns to the Board of Trade as it requires with respect to the build, dimensions, draught, burden, rate of sailing, room for fuel, and the nature and particulars of machinery and equipments, of the ships surveyed by them; and every owner, master, and engineer of any such ship shall, on demand, give to such surveyors all such information and assistance within his power as they require for the purpose of such returns; and every such owner, master, or engineer who, on being applied to for that purpose, wilfully refuses or neglects to give such information or assistance, shall be liable to a penalty not exceeding five pounds.

Misconduct by passengers in steamers.

Misconduct by Passengers in Steamers.

Penalties on persons forcing way on board;

322. The following offenders, that is to say,

(1) Any person who, after having been refused admission into any steamer by the owner or person in charge thereof, or by any person in the employ of the owner thereof, on account of such steamer being full, and after having had the full amount of his fare (if he has paid the same) returned or tendered to him, nevertheless persists in attempting to enter the same; and

or refusing to quit the ship.

(2) Any person having got on board any steamer, who, upon being requested on the like account by the owner or person in charge thereof, or by any person in the employ of the owner, to leave such steamer before the same has quitted the place at which such person got on board, and upon having the full amount of his fare (if he has paid the same) returned or tendered to him, refuses to comply with such request;

Shall for each such offence incur a penalty not exceeding forty shillings, to be paid to the said owner. [Repealed, 25 & 26 Vict. c. 63. s. 2.]

Penalty for avoiding payment of fares.

323. The following offenders, that is to say,

(1) Any person who travels or attempts to travel in any passenger steamer which has been duly surveyed in conformity with the provisions of this Act, without having previously paid his fare, and with intent to avoid payment thereof; and

(2) Any person who, having paid his fare for a certain distance, knowingly and wilfully proceeds in any such steamer beyond such distance, without previously paying the additional fare for the additional distance, and with intent to avoid payment thereof; and

(3) Any person who knowingly and wilfully refuses or neglects, on arriving at the point to which he has paid his fare, to quit any such steamer;

Shall for every such offence incur a penalty not exceeding five shillings, in addition to the fare payable by him, such penalty to be payable to the owner of such steamer. [Repealed, 25 & 26 Vict. c. 63. s. 2.]

Penalty on persons refusing to give their name and address.

324. Every person who, having committed any of the offences mentioned in the two last preceding sections or either of them, refuses on application of the master of the ship, or of any other person in the employ of the owner thereof, to give his name and address, or who on such application gives a false

name or address, shall incur a penalty not exceeding twenty pounds, to be paid to the said owner.

Misconduct by passengers in steamers.

325. The master of any home trade passenger steam ship may refuse to receive on board thereof any person who by reason of drunkenness or otherwise is in such a state, or misconducts himself in such a manner, as to cause annoyance to other passengers on board, or if such person is on board, may put him on shore at any convenient place; and no person so refused admittance or put on shore shall be entitled to the return of any fare he may have paid.

Power to refuse or remove passengers who are drunk or misconduct themselves

Accidents.

Accidents.

326. Whenever any steam ship has sustained or caused any accident occasioning loss of life or any serious injury to any person, or has received any material damage affecting her seaworthiness or her efficiency, either in her hull or in any part of her machinery, the owner or master shall within twenty-four hours after the happening of such accident or damage, or as soon thereafter as possible, send to the Board of Trade, by letter signed by such owner or master, a report of such accident or damage, and of the probable occasion thereof, stating the name of the ship, the port to which she belongs, and the place where she is; and if such owner or master neglect so to do, he shall for such offence incur a penalty not exceeding fifty pounds.

Accidents to steam ships to be reported to Board of Trade.

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328. In every case of collision in which it is practicable so to do, the master shall immediately after the occurrence cause a statement thereof, and of the circumstances under which the same occurred, to be entered in the official log book (if any), such entry to be signed by the master, and also by the mate or one of the crew, and in default shall incur a penalty not exceeding twenty pounds.

Collisions to be entered in official log.

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Part V.

Pilotage.

Application.

Application.

330. The fifth part of this Act shall apply to the United Kingdom only.[a]

Application of part V. of Act.

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[a] The rest of this Part is omitted as not applying to India.

PART VI.

LIGHTHOUSES.

Management of lighthouses.

Management of Lighthouses.

Management of lighthouses, buoys, and beacons to be in Trinity House, Commissioners of Northern Lighthouses, and Port of Dublin Corporation.

389. SUBJECT to the provisions herein-after contained, and subject also to any powers or rights now lawfully enjoyed or exercised by any person or body of persons having by law or usage authority over local lighthouses, buoys, or beacons, herein-after termed "local authorities," the superintendence and management of all lighthouses, buoys, and beacons shall be vested in the following bodies; that is to say,

In England and Wales, and the Islands of Jersey, Guernsey, Sark, and Alderney, and the adjacent seas and islands, and in Heligoland and Gibraltar—in the Trinity House:

In Scotland and the adjacent seas and islands, and in the Isle of Man—in the Commissioners of Northern Lighthouses herein-after mentioned:

In Ireland and the adjacent seas and islands—in the Port of Dublin Corporation:

And, subject to the provisions herein-after contained, the said Trinity House, Commissioners, and Corporation (herein-after termed general lighthouse authorities) shall respectively continue to hold and maintain all property now vested in them in that behalf in the same manner and for the same purposes as they have hitherto held and maintained the same.

Incorporation of Commissioners of Northern Lighthouses

390. THE persons holding the following offices shall be a body corporate, under the name of the Commissioners of Northern Lighthouses; that is to say,

(1) The Lord Advocate and the Solicitor-General for Scotland;

(2) The Lords Provosts of Edinburgh and Glasgow, and the provosts of the cities of Aberdeen, Inverness, and Campbeltown;

(3) The eldest bailies of Edinburgh and Glasgow;

(4) The sheriffs of the counties of Edinburgh, Lanark, Renfrew, Bute, Argyle, Inverness, Ross, Orkney, Caithness, Aberdeen, Ayr, Fife, Forfar, Wigton, Sutherland, Kincardine, Kircudbright, and Elgin;

And shall have a common seal; and any five of such Commissioners shall constitute a quorum, and shall have power to do all such matters and things as might be done by the whole body of Commissioners.

Management of light-houses.

Power to elect certain new members.

391. In addition to the persons above mentioned, it shall be lawful for the said Commissioners at any time after this Act comes into operation to elect the provost or chief magistrate of any royal or parliamentary burgh on or near any part of the coasts of Scotland, and the sheriff of any county abutting on such coasts.

Trinity House may inspect lighthouses in Scotland and Ireland.

392. The Trinity House, their engineers, workmen, and servants, may at all times enter any lighthouses within the jurisdiction of the said Commissioners or Corporation, to view the condition thereof, or otherwise for the purposes of this Act.

Board of Trade may appoint persons to inspect light-houses, &c.

393. The Board of Trade may, upon complaint to the effect that any lighthouse, buoy, or beacon under the management of any of the said general lighthouse authorities, or any work connected therewith, is inefficient or improperly managed or unnecessary, authorize persons to inspect the same; and every person so authorized may inspect the same accordingly, and make such inquiries in respect thereof, and of the management thereof, as he may think fit; and all officers and others having the care of such lighthouses, buoys, or beacons, or concerned in the management thereof, shall furnish all such information and explanations in relation thereto as he may require; and the said general lighthouse authorities, and their respective officers, shall at all times give to the Board of Trade all such returns, explanations, or information in relation to the lighthouses, buoys, or beacons within their jurisdiction, and the management thereof, as such Board may from time to time require.

Power to general light-house authorities to control local authorities.

394. Each of the said general lighthouse authorities, upon giving due notice of their intention, shall have power, with the sanction of the Board of Trade, to compel any local authority having jurisdiction in the matter of lighthouses, buoys, or beacons at any place situate within the jurisdiction of such general lighthouse authority to lay down buoys, or to remove or discontinue any existing lighthouse or beacon, or to make any variation in the character of any lighthouse, or in the mode of exhibiting lights therein; and no such local authority as aforesaid shall erect any new lighthouse, or remove or discontinue any lighthouse, or vary the character of any lighthouse, or the mode of exhibiting lights therein, without the sanction of the general lighthouse authority within whose jurisdiction the same is situate.

In case of default by local bodies, local light-houses may be transferred to general lighthouse authorities.

395. If any local authority having power to erect, maintain, or place any local lighthouse, buoy, or beacon at any place within the jurisdiction of one of the said general lighthouse authorities fails so to do, or fails to obey any direction given by such authority under the last preceding section, her Majesty may, upon application from such general lighthouse authority, by Order in Council direct that such power as aforesaid shall be transferred to

Management of light-houses

such last-mentioned authority; and such power, together with all powers of levying and receiving dues in respect of such lighthouse, buoy, or beacon, shall thereupon become vested in such last-mentioned authority; and such lighthouse, with its appurtenances, and also such buoy or beacon, and all dues leviable in respect thereof, shall thenceforth be subject in all respects to the same regulations as other lighthouses and light dues, buoys, and beacons provided for by this Act.

Light dues.

Light Dues.

Dues to be levied.

396. Subject to any alterations to be made under the powers herein-after contained, the said general lighthouse authorities shall in respect of the existing lighthouses, buoys, or beacons within their respective jurisdictions continue to levy dues, herein-after called light dues, after the rate at which the same are levied at the time when this Act comes into operation; and such light dues shall be payable in respect of all ships whatever, except ships belonging to her Majesty, and ships hereby exempted from payment thereof.

Light dues to be subject to revision by her Majesty in Council.

397. Her Majesty may, by and with the advice of her Privy Council, from time to time reduce all or any of the dues for the time being payable in respect of existing or future lighthouses, buoys, or beacons for the time being under the management of the said general lighthouse authorities; and may also, by and with the like advice, from time to time increase or vary any of such dues, so that no dues payable in respect of any lighthouse, buoy, or beacon existing at the time when this Act comes into operation are made to exceed the amount which has at any period previous to such time been received in respect thereof, or to which the said dues might during any part of such period as last aforesaid lawfully have been raised.

Powers of general lighthouse authorities to alter and regulate dues.

398. Each of the said general lighthouse authorities shall have power, with the consent of her Majesty in Council, to do any of the following things; that is to say,

To exempt any ships or any classes of ships from the payment of light dues receivable by such authority, and to annex any terms or conditions to such exemptions:

To alter the times, places, and modes at and in which the light dues receivable by such authority are payable:

To substitute any other dues or class of dues, whether by way of annual payment or otherwise, in respect of any ships or classes of ships, for the dues payable to such authority for the time being.

Publication of dues and regulations.

399. Tables of all light dues, and a copy of the regulations for the time

being in force in respect thereof, shall be posted up at all custom houses within the United Kingdom; and each of the said general lighthouse authorities shall from time to time as occasion requires furnish copies of such tables and regulations to the Commissioners of Customs in London, and to the principal officers of Customs resident at all places where light dues are collected on account of such lighthouse authority; and such copies shall be posted up by the Commissioners at the Custom House in London, and by such officers at the custom houses of the places at which they are respectively resident.

Light dues.

400. A RECEIPT for light dues shall be given by the person appointed to collect the same to every person paying the same; and no officer of Customs at any port where light dues are payable in respect of any ship shall grant a clearance or transire for any such ship unless the receipt for the same is produced to him.

Ship not to be cleared without production of receipt for light dues.

401. IF the owner or master of any ship fails on demand of the authorized collector to pay the light dues due in respect thereof, it shall be lawful for such collector, in addition to any other remedy which he or the authority by whom he is appointed is entitled to use, to enter upon such ship, and distrain the goods, guns, tackle, or any other thing of or belonging to or on board such ship, and to detain such distress until the said light dues are paid; and if payment of the same is not made within the period of three days next ensuing such distress, he may at any time during the continuance of such nonpayment cause the same to be appraised by two sufficient persons or sworn appraisers, and thereupon sell the same, and apply the proceeds in payment of the light dues due, together with all reasonable expenses incurred by him under this section, paying the surplus (if any), on demand, to the said owner or master.

Power of distress for light dues.

402. EVERY person appointed to collect light dues by any of the said general lighthouse authorities shall collect all light dues payable at the port or place at which he is so appointed, whether the same be collected on account of such last-mentioned authority or of the other general lighthouse authorities, and shall pay over to the general lighthouse authority by whom he was appointed, or as it directs, the whole amount of light dues received by him, and the authority so receiving the same shall keep accounts thereof, and shall cause the same to be remitted to her Majesty's Paymaster General in such manner as the Board of Trade directs.

Light dues, how to be paid over and accounted for.

403. ALL light dues coming to the hands of any of the said general lighthouse authorities under this Act shall be carried to the account of the Mercantile Marine Fund herein-after mentioned, and shall be dealt with in manner herein-after prescribed.

Application of light dues.

New lighthouses.

Construction of and Dues for New Lighthouses.

Power to lighthouse authorities to erect, place, and alter lighthouses, buoys, and beacons.

404. Each of the said general lighthouse authorities shall have power, within its jurisdiction, to execute the following works and do the following things; (that is to say,)

(1) To erect or place new lighthouses, with all requisite works, roads, and appurtenances, or alter or remove any existing lighthouses:

(2) To erect or place any new buoys or beacons, or alter or remove any existing buoys or beacons:

(3) To take and purchase any land which may be necessary for the above purposes, or for the maintenance of the works or the residence of the light keepers:

(4) To vary the character of any lighthouse, or the mode of exhibiting lights therein:

(5) To sell any land belonging to it:

But the exercise of the above power shall, in the case of the said Commissioners and Corporation, be subject to the restrictions herein-after contained.

This power in the case of the Commissioners and Corporation to be subject to approval by Trinity House, with appeal to Board of Trade.

405. Previously to undertaking any such work as aforesaid, the said Commissioners or Corporation, as the case may be, shall forward a notice specifying fully the nature of the work proposed to be undertaken by them, and their reasons for undertaking the same, to the Trinity House, who shall take the proposed scheme into their consideration, and notify to the said Commissioners or Corporation their approval or rejection thereof, with or without modifications; but no such notification shall be binding on the said Commissioners or Corporation until the same has been sanctioned by the Board of Trade in manner herein-after mentioned; and at any time previous to such sanction being given the said Commissioners or Corporation may forward to the Trinity House and the Board of Trade, or either of them, any objections to, or observations upon, or suggestions in respect of, such notification.

Sanction of Board of Trade, how to be obtained.

406. In order to obtain such sanction as aforesaid, the Trinity House shall forward a copy of their notification, accompanied by copies of all communications that have passed between the Trinity House and the said Commissioners or Corporation, to the Board of Trade; and such Board shall have power to give any directions they may think fit in relation to the matters submitted to them, by granting or withholding their sanction, either wholly or partially, and either with or without modification.

Trinity House to inform Commissioners

407. The Trinity House shall forthwith communicate the directions given by the Board of Trade in relation to the matters aforesaid to the said

Commissioners or Corporation, and the said Commissioners or Corporation shall, upon the receipt of such directions, be bound to act in conformity therewith, and to do or forbear doing anything thereby directed to be done or forborne.

New lighthouses.

or Corporation of decision of Board of Trade.

408. The Trinity House shall have power to direct the said Commissioners and Corporation, or either of them, to execute the following works; (that is to say,)

Power to Trinity House, with sanction of Board of Trade, to compel execution of works by Commissioners and Corporation.

(1) To continue any existing lighthouses, buoys, or beacons:

(2) To erect or place any new lighthouses, buoys, or beacons, or alter or remove any existing lighthouses, buoys, or beacons:

(3) To vary the character of any lighthouse, or the mode of exhibiting lights therein:

But no such directions shall be issued to the said Commissioners or Corporation until the issue thereof has been sanctioned by the Board of Trade; such sanction to be obtained by the Trinity House in manner herein-after mentioned.

Sanction of Board of Trade, how to be obtained.

409. Previously to issuing any such directions as aforesaid the Trinity House shall make an application to the Board of Trade, stating fully the nature of the work to which such directions relate, and their reasons for directing the same; and shall at the same time give notice to the said Commissioners or Corporation respectively of such their application, by causing written notice of the said application and a copy of the proposed directions to be left at or sent to the office of the said Commissioners in Edinburgh, or the office of the said Corporation in Dublin, as the case may be; and opportunity shall be afforded to the said Commissioners or Corporation to submit any observations they may see fit to make with respect to such application to the Trinity House, and to the Board of Trade; and if thereupon the said Trinity House adhere to their said directions, and if the Board of Trade concur therein, and if such adherence and concurrence is duly notified to the said Commissioners or Corporation, it shall be their duty within a reasonable time after such notification is made to carry the said directions into effect.

Her Majesty may by Order in Council fix dues to be taken for new lighthouses.

410. Upon the completion of any new lighthouse, buoy, or beacon, her Majesty may by Order in Council fix such dues in respect thereof to be paid by the master or owner of every ship which passes the same or derives benefit therefrom as her Majesty may deem reasonable, and may from time to time alter the amount thereof; and such dues shall be paid and collected in the same manner, by the same means, and subject to the same conditions, in, by, and subject to which the light dues authorized to be levied by this Act are paid and collected.

New lighthouses.

No dues to be levied in the Channel Islands without consent of the States, and no power to be exercised therein but by Order in Council.

411. No dues for any lighthouse, buoy, or beacon to be erected or placed in or near the Islands of Guernsey, Jersey, Sark, or Alderney shall be taken in the said Islands of Guernsey or Jersey without the consent of the States of the said islands respectively; nor shall any powers herein-before given to the Trinity House in respect of any lighthouse, buoy, or beacon erected or placed in the Islands of Guernsey or Jersey, or hereafter to be erected or placed in such islands, be exercised without the consent of her Majesty in Council.

Incorporation of 8 & 9 Vict. cc. 18 and 19.

412. The Lands Clauses Consolidation Act, 1845, and the Lands Clauses Consolidation Act (Scotland), 1845, shall be incorporated in this Act, and shall apply to all lighthouses to be constructed and all land to be purchased under the powers thereof.

Surrender of local lighthouses.

Local lighthouses may be surrendered to general lighthouse authorities.

Surrender of Local Lighthouses.

413. Every local authority holding any lighthouse, buoy, or beacon at any place within the jurisdiction of any of the said general lighthouse authorities may, if they think fit, surrender or sell the same to such general lighthouse authority, and such authority may, with the consent of the Board of Trade, accept or purchase the same, the purchase money (if any) to be paid out of the said Mercantile Marine Fund; and thereupon such lighthouse and its appurtenances, or such buoy or beacon, as the case may be, shall become vested in such authority; and such authority shall be entitled to receive all dues lawfully payable in respect thereof at the time of such surrender or sale, or, if her Majesty by Order in Council so directs, such dues as might be fixed and made payable if the same were a new lighthouse, buoy, or beacon; and such lighthouse, buoy, or beacon, and the dues payable in respect thereof, shall after such surrender or sale be subject in all respects to the same regulations as other lighthouses and light dues, buoys, and beacons provided for by this Act.

Damage to lights, buoys, and beacons.

Penalty for injuring lights, buoys, and beacons.

Damage to Lights, Buoys, and Beacons.

414. If any person wilfully or negligently commits any of the following offences; (that is to say,)

(1) Injures any lighthouse, or the lights exhibited therein, or any buoy or beacon;

(2) Removes, alters, or destroys any lightship, buoy, or beacon;

(3) Rides by, makes fast to, or runs foul of, any light ship or buoy;

He shall, in addition to the expenses of making good any damage so occasioned, incur a penalty not exceeding fifty pounds.

Prevention of False Lights.

Prevention of false lights.

General lighthouse authorities may prohibit false lights.

415. Whenever any fire or light is burnt or exhibited at such place or in such manner as to be liable to be mistaken for a light proceeding from a lighthouse, it shall be lawful for the general lighthouse authority within whose jurisdiction such place is situate to serve a notice upon the owner of the place where the fire or light is burnt or exhibited, or on the person having the charge of such fire or light, either personally, or by delivery at the place of abode of such owner or person, or by affixing the same in some conspicuous spot near to such fire or light, and by such notice to direct such owner or person, within a reasonable time to be therein specified, to take effectual means for the extinguishing or effectually screening such existing light, and for preventing for the future any similar fire or light; and any owner or person disobeying such notice shall be deemed guilty of a common nuisance, and, in addition to any other penalties or liabilities of any kind thereby incurred, shall incur a penalty not exceeding one hundred pounds.

If not obeyed, they may abate such lights.

416. If any owner or person served with such notice as aforesaid neglects for a period of seven days to extinguish or effectually screen the fire or light therein mentioned, it shall be lawful for the general lighthouse authority within whose jurisdiction the same may be, by their servants or workmen, to enter upon the place whereon the same may be, and forthwith to extinguish such fire or light, doing no unnecessary damage; and all expenses incurred by such authority in such extinction may be recovered from such person or owner as aforesaid in the same way as penalties are hereby directed to be recoverable.

Part VII.

Mercantile Marine Fund.

Mercantile Marine Fund.

Sums to be carried to Mercantile Marine Fund.

417. The following sums shall be carried to a common fund, to be entitled the "Mercantile Marine Fund;" (that is to say,)

(1) All fees and other sums (other than fines and forfeitures) received by the Board of Trade under the provisions of the third and fourth parts of this Act:

(2) All light dues or other sums received by or accruing to the Trinity House, the Commissioners of Northern Lighthouses, and the Port of Dublin Corporation, under the sixth part of this Act:

Mercantile Marine Fund.

6 & 7 Vict. c 57

(3) All rates and monies received by the Trinity House under the local Act of the seventh year of her present Majesty, chapter fifty-seven, for the regulation of lastage and ballastage in the river Thames:

(4) All fees and other sums mentioned in the table marked V. in the schedule hereto which are received by receivers appointed under the eighth part of this Act:

And an account of the said fund, intituled "The Mercantile Marine Fund Account," shall be kept with her Majesty's Paymaster General.

Application of Mercantile Marine Fund.

418. SUBJECT to any prior charges that may be subsisting thereon by virtue of any Act or Acts of Parliament or otherwise, the said fund shall be chargeable with the following expenses; that is to say,

(1) The salaries and other expenses connected with the local marine boards, the examinations, and the shipping offices, provided for by the third part of this Act:

. . . . . .

(3) All expenses incurred by the general lighthouse authorities aforesaid in the works and services of lighthouses, buoys, and beacons provided for by the sixth part of this Act, or in the execution of any any works necessary or expedient for the purpose of permanently reducing the expense of such works and services:

(4) All expenses incurred by the Trinity House in respect of lastage and ballastage in the river Thames:

(5) Such expenses for establishing and maintaining on the coasts of the United Kingdom proper life-boats, with the necessary crews and equipments, and for affording assistance towards the preservation of life and property in cases of shipwreck and distress at sea, and for rewarding the preservation of life in such cases, as the Board of Trade directs:

(6) Any expenses incurred in carrying into effect the provisions with regard to receivers and the performance of their duties contained in the eighth part of this Act:

(7) Any expenses which by this or any other Act of Parliament are specially charged thereon:

And shall, save as herein-after mentioned, be applicable to no other purpose whatever.

Application of ballastage rates.

6 & 7 Vict. c 57

419. THE said rates and monies received by the Trinity House under the said local Act of the seventh year of her present Majesty, chapter fifty-seven, shall, subject to the payment of such proportion of any prior charges subsisting on the Mercantile Marine Fund as may in the opinion of the Board

of Trade be fairly chargeable thereon, and to the powers of raising money upon the credit of the said fund herein contained, be applicable only to services performed for the purpose of supplying ballast to or providing for the safety or convenience of such ships as navigate the said river Thames and the seas and channels leading thereto between Orfordness on the north and Dungeness on the south: Provided, that if, in addition to the duties performed in consideration of the said ballastage rates under the said local Act, the Trinity House, at the request or with the consent of the owners or masters of or agents for any ships, undertake to place ballast on board thereof, or to unload ballast therefrom, they shall be entitled to charge for such additional duties such reasonable additional rate per ton for ballast so placed on board or unladen as her Majesty by Order in Council from time to time approves.

Mercantile Marine Fund.

420. Her Majesty may from time to time, by and with the advice of her Privy Council, fix the establishments to be maintained by each of the said general lighthouse authorities on account of the services of lighthouses, buoys, and beacons, and also, as regards the Trinity House, on account of the service of lastage and ballastage in the river Thames, or the annual or other sums to be paid out of the said fund in respect of such establishments; and if it appears that any part of the establishments of the said lighthouse authorities is maintained for the purposes of such duties and also for other purposes, to fix and from time to time alter the portion of the expense of such establishments to be paid out of the said fund; and no increase of any establishment or part of an establishment so fixed shall be made without the consent of the Board of Trade.

Establishments for lighthouses and ballastage charged on fund to be fixed by her Majesty in Council.

421. The said general lighthouse authorities may from time to time, with the sanction of the Board of Trade, grant superannuations or compensations to persons whose salaries are payable out of the said fund, and who are discharged or retire; so nevertheless that no superannuation allowance or compensation to any person so discharged or retiring shall exceed the proportion of his salary which might be granted to a person in the public civil service under the Act of the fourth and fifth years of King William the Fourth, chapter twenty-four, or under any other Act for regulating such superannuation allowances or compensations for the time being in force.

Power to grant superannuation allowances.

422. Each of the said general lighthouse authorities shall from time to time submit to the Board of Trade estimates of all expenses to be incurred by them in respect of the matters aforesaid, other than the establishment expenses for the time being allowed by Order in Council as aforesaid; and shall also, whenever in providing for any sudden emergency it is necessary to incur any expense without waiting until an estimate can be sanctioned, as soon

Estimates and accounts for other expenses to be approved by the Board of Trade.

Mercantile Marine Fund.

as possible send to the Board of Trade a full account of such expense; and the Board of Trade shall consider and may approve such estimates and accounts, either with or without modification.

No expense to be allowed unless sanctioned by Board of Trade.

423. No expense of any of the said general lighthouse authorities in respect of the said services shall be paid out of the Mercantile Marine Fund, or allowed in account, other than the sums so allowed for establishment expenses as aforesaid, or included in estimates or accounts approved by the Board of Trade.

For the purpose of erecting and repairing lighthouses, and other extraordinary expenses, Treasury may advance money.

424. For the purpose of the construction and repair of lighthouses, and of other extraordinary expenses connected with the said services, the Treasury are authorized from time to time, upon the application of the Board of Trade, to advance out of the growing produce of the Consolidated Fund of the United Kingdom such sums of money, upon such terms, and at such rate of interest, as they think fit, and to pay the same into the Mercantile Marine Fund Account, so nevertheless that the whole sum for the time being due in respect of such advances shall never at any one time exceed two hundred thousand pounds; and upon any advance being so made the sum so advanced and the interest shall be a charge on the Mercantile Marine Fund, and upon the dues, rates, fees, and payments so to be carried thereto as aforesaid; and the Board of Trade shall make such provision for the repayment thereof out of the said fund, either by forming a sinking fund or otherwise, as the Treasury may require: Provided, that no such advance shall prevent any lawful reduction of any of the said dues, rates, fees, or payments, if such reduction be assented to by the Treasury.

Power to Board of Trade to borrow money on the credit of fund.

425. The Board of Trade may also, for the purpose last aforesaid, raise money by mortgaging the Mercantile Marine Fund, and the several dues, rates, fees, and payments so to be carried thereto as aforesaid, or any of them, or any part thereof, to any person or body of persons; and every such mortgage shall be in such form, and under the hand and seal of such person or persons, as the President of the said Board for the time being may direct; and no person or body of persons lending money upon any such mortgage shall be bound to see to the purpose for which the same is raised, or to the mode in which it is applied.

Power to Public Works Loan Commissioners to advance money on the credit of the fund.

426. The Public Works Loan Commissioners may also, for the purpose last aforesaid, advance money upon mortgage of the said Mercantile Marine Fund, and the several dues, rates, fees, and payments so to be carried thereto as aforesaid, or any of them, or any part thereof, without requiring any further security than such mortgage as aforesaid; but every mortgage so made to the said Public Works Loan Commissioners, or their secretary for the time being, shall be made under and in pursuance of the Acts of Parliament regulating

the proceedings of the said Public Works Loan Commissioners, anything herein contained to the contrary notwithstanding: Provided, that no advance which may be made by the said Public Works Loan Commissioners shall prevent any lawful reduction of any of the said dues, rates, fees, or payments, if such reduction is assented to by the said Public Works Loan Commissioners.

Mercantile Marine Fund.

427. Each of the said general lighthouse authorities shall account to the Board of Trade for their receipts from the said light dues and ballastage rates, and for their expenditure as regards expenses paid out of the said fund, in such form, and at such times, and with such details, explanations, and vouchers, as the Board of Trade requires, and shall, when required by such Board, permit all books of accounts kept by or under their respective direction to be inspected and examined by such persons as the said Board appoints for that purpose.

Lighthouse authorities to account for receipt and expenditure to Board of Trade.

428. The Board of Trade shall render to the Commissioners for Auditing the Public Accounts periodical accounts of the whole of the receipts and expenditure of the Mercantile Marine Fund, such accounts to be signed and declared to by the accountant appointed by the Board of Trade for that purpose; and in case of default it shall be lawful for the Treasury to make or direct such allowance as under the circumstances of the case they may think fit in respect thereof.

Accounts of fund to be audited by Commissioners of Audit.

429. The Board of Trade shall as soon as practicable after the meeting of Parliament in every year cause the account of the Mercantile Marine Fund for the then preceding year to be laid before both Houses of Parliament.

Accounts to be laid before Parliament.

430. All lighthouses, buoys, beacons, and light dues, and all other rates, fees, or payments accruing to or forming part of the said fund, and all premises or property belonging to or occupied by any of the said general lighthouse authorities or the Board of Trade, which are used or applied for the purposes of any of the services for which such dues, rates, fees, and payments are received, and all instruments or writings used by or under the direction of any of the said general lighthouse authorities or the Board of Trade in carrying on the said services, shall be exempted from all public, parochial, and local taxes, duties, and rates of every kind.

Property used for the purposes of parts III. and VI. of Act to be exempt from all rates and taxes.

431. The ships belonging to or used by any of the said general lighthouse authorities, or by the Board of Trade, shall be privileged to enter, resort to, and use any harbours, ports, docks, or piers in the United Kingdom, without payment of any tolls, dues, or rates of any kind.

Ships of light house authorities exempt from harbour-dues.

PART VIII.

WRECKS, CASUALTIES, AND SALVAGE.

Inquiries into wrecks.

Inquiries into Wrecks.

Inquiries to be instituted in cases of wreck and casualty.

432. IN any of the cases following; that is to say,

Whenever any ship is lost, abandoned, or materially damaged on or near the coasts of the United Kingdom;

Whenever any ship causes loss or material damage to any other ship on or near such coasts;

Whenever by reason of any casualty happening to or on board of any ship on or near such coasts loss of life ensues;

Whenever any such loss, abandonment, damage, or casualty happens elsewhere, and any competent witnesses thereof arrive or are found at any place in the United Kingdom;

It shall be lawful for the inspecting officer of the coast guard or the principal officer of Customs residing at or near the place where such loss, abandonment, damage, or casualty occurred, if the same occurred on or near the coasts of the United Kingdom, but if elsewhere, at or near the place where such witnesses as aforesaid arrive or are found or can be conveniently examined, or for any other person appointed for the purpose by the Board of Trade, to make inquiry respecting such loss, abandonment, damage, or casualty; and he shall for that purpose have all the powers given by the first part of this Act to inspectors appointed by the said Board.

Formal investigation before justices

433. IF it appears to such officer or person as aforesaid, either upon or without any such preliminary inquiry as aforesaid, that a formal investigation is requisite or expedient, or if the Board of Trade so directs, he shall apply to any two justices, or to a stipendiary magistrate, to hear the case; and such justices or magistrate shall thereupon proceed to hear and try the same, and shall for that purpose, so far as relates to the summoning of parties, compelling the attendance of witnesses, and the regulation of the proceedings, have the same powers as if the same were a proceeding relating to an offence or cause of complaint upon which they or he have power to make a summary conviction or order, or as near thereto as circumstances permit; and it shall be the duty of such officer or person as aforesaid to superintend the management of the case, and to render such assistance to the said justices or magistrate as is in his power; and upon the conclusion of the case the said justices or magistrate shall send a report to the Board of Trade, containing a full

statement of the case and of their or his opinion thereon, accompanied by such report of or extracts from the evidence, and such observations (if any) as they or he may think fit.

Inquiries into wrecks.

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435. In places where there is a local marine board, and where a stipendiary magistrate is a member of such board, all such investigations as aforesaid shall, whenever he happens to be present, be made before such magistrate; and there shall be paid to such magistrate in respect of his services under this Act such remuneration, whether by way of annual increase of salary or otherwise, as her Majesty's Secretary of State for the Home Department, with the consent of the Board of Trade, may direct; and such remuneration shall be paid out of the Mercantile Marine Fund.

Stipendiary magistrate to be the magistrate who is member of local marine board, and to be paid.

436. The said justices or magistrate may make such order with respect to the costs of any such investigation or any portion thereof as they or he may deem just, and such costs shall be paid accordingly, and shall be recoverable in the same manner as other costs incurred in summary proceedings before them or him; and the Board of Trade may, if in any case it thinks fit so to do, pay the expense of any such investigation, ...

Costs of such investigations.

437. In the case of any such investigation as aforesaid to be held in Scotland, the Board of Trade may, if it so thinks fit, remit the same to the Lord Advocate, to be prosecuted in such manner as he may direct, ...

Investigations in Scotland.

438. Such justices or magistrate as aforesaid may, or in Scotland such person or persons as is or are directed by the Lord Advocate to conduct the investigation may, if they or he think fit, require any master or mate possessing a certificate of competency or service whose conduct is called in question or appears to them or him likely to be called in question in the course of such investigation to deliver such certificate to them or him, and they or he shall hold the certificate so delivered until the conclusion of the investigation, and shall then either return the same to such master or mate, or, if their report is such as to enable the Board of Trade to cancel or suspend such certificate under the powers given to such Board by the third part of this Act, shall forward the same to the Board of Trade, to be dealt with as such Board thinks fit; and if any master or mate fails so to deliver his certificate when so required, he shall incur a penalty not exceeding fifty pounds.

Master or mate may be required to deliver certificate, to be held until close of inquiry.

Appointment and Duties of Receivers.

Appointment and duties of receivers.

439. The Board of Trade shall throughout the United Kingdom have the general superintendence of all matters relating to wreck; and it may, with the consent of the Commissioners of her Majesty's Treasury, appoint any officer of Customs or of the coast guard, or any officer of Inland Revenue, or, when it

Board of Trade superintendents of wreck, with power to appoint receivers.

Appointment and duties of receivers.

appears to such Board to be more convenient, any other person, to be a receiver of wreck in any district, and to perform such duties as are herein-after mentioned, and shall give due notice of every such appointment.

Admiral not to interfere with wreck.

440. No admiral, vice-admiral, or other person, under whatever denomination, exercising Admiralty jurisdiction, shall as such, by himself or his agents, receive, take, or interfere with any wreck, except as herein-after mentioned.

Duty of receiver when any ship is stranded or in distress.

441. WHENEVER any ship or boat is stranded or in distress at any place on the shore of the sea or of any tidal water within the limits of the United Kingdom, the receiver of the district within which such place is situate shall upon being made acquainted with such accident forthwith proceed to such place, and upon his arrival there he shall take the command of all persons present, and assign such duties to each person and issue such directions as he may think fit, with a view to the preservation of such ship or boat, and the lives of the persons belonging thereto, and the cargo and apparel thereof; and if any person wilfully disobeys such directions, he shall forfeit a sum not exceeding fifty pounds; but it shall not be lawful for such receiver to interfere between the master of such ship or boat and his crew in matters relating to the management thereof, unless he is requested so to do by such master.

Powers of receiver in case of such accident to any ship or boat.

442. THE receiver may, with a view to such preservation as aforesaid of the ship or boat, persons, cargo, and apparel, do the following things; (that is to say,)

(1) Summon such number of men as he thinks necessary to assist him:

(2) Require the master or other person having the charge of any ship or boat near at hand to give such aid with his men, ship, or boats as may be in his power:

(3) Demand the use of any waggon, cart, or horses that may be near at hand:

And any person refusing without reasonable cause to comply with any summons, requisition, or demand so made as aforesaid shall for every such refusal incur a penalty not exceeding one hundred pounds; but no person shall be liable to pay any duty of assessed taxes in respect of any such waggon, cart, or horses by reason of the user of the same under this section.

All articles washed on shore, or lost or taken from any ship or boat, to be delivered to the receiver.

443. ALL cargo and other articles belonging to such ship or boat as aforesaid, that may be washed on shore, or otherwise be lost or taken from such ship or boat, shall be delivered to the receiver; and any person, whether he is the owner or not, who secretes or keeps possession of any such cargo or article, or refuses to deliver the same to the receiver, or to any person authorized by him to demand the same, shall incur a penalty not exceeding

one hundred pounds; and it shall be lawful for such receiver or other person as aforesaid to take such cargo or article by force from the person so refusing to deliver the same.

Appointment and duties of receivers.

444. WHENEVER any such accident as aforesaid occurs to any ship or boat, and any person plunders, creates disorder, or obstructs the preservation of such ship, boat, lives, or cargo as aforesaid, it shall be lawful for the receiver to cause such person to be apprehended, and to use force for the suppression of any such plundering, disorder, or obstruction as aforesaid, with power to command all her Majesty's subjects to assist him in the use of such force; and if any person is killed, maimed, or hurt by reason of his resisting the receiver in the execution of the duties hereby committed to him, or any person acting under his orders, such receiver or other person shall be free and fully indemnified, as well against the Queen's Majesty, her heirs and successors, as against all persons so killed, maimed, or hurt.

Power of receiver to suppress plunder and disorder by force.

445. DURING the absence of the receiver from the place where any such accident as aforesaid occurs, or in places where no receiver has been appointed under this Act, the following officers in succession, each in the absence of the other, in the order in which they are named, that is to say, any principal officer of Customs or of the coast guard, or officer of Inland Revenue, and also any sheriff, justice of the peace, commissioned officer on full pay in the Naval Service of her Majesty, or commissioned officer on full pay in the Military Service of her Majesty, may do all matters and things hereby authorized to be done by the receiver, with this exception, that with respect to any goods or articles belonging to any such ship or boat, the delivery up of which to the receiver is herein-before required, any officer so acting shall be considered as the agent of the receiver, and shall place the same in the custody of the receiver; and no person so acting as substitute for any receiver shall be entitled to any fees payable to receivers, or be deprived by reason of his so acting of any right to salvage to which he would otherwise be entitled.

Certain officers to exercise powers of receiver in his absence.

446. WHENEVER any such accident as aforesaid occurs to any ship or boat, all persons may for the purpose of rendering assistance to such ship or boat, or saving the lives of the persons on board the same, or the cargo or apparel thereof, unless there is some public road equally convenient, pass and repass either with or without carriages or horses over any adjoining lands, without being subject to interruption by the owner or occupier, so that they do as little damage as possible, and may also, on the like condition, deposit on such lands any cargo or other article recovered from such ship or boat; and all damage that may be sustained by any owner or occupier in consequence of any such passing or repassing or deposit as aforesaid shall be a charge on the

Power in case of a ship being in distress to pass over adjoining lands with carriages.

Appointment and duties of receivers.

ship, boat, cargo, or articles in respect of or by which such damage was occasioned, and shall, in default of payment, be recoverable in the same manner as salvage is hereby made recoverable; and the amount payable in respect thereof, if disputed, shall be determined in the same manner as the amount of salvage is hereby in case of dispute directed to be determined.

Penalty on owners and occupiers of land refusing to allow carriages, &c. to pass over their land.

447. If the owner or occupier of any land over which any person is hereby authorized to pass or repass for any of the purposes herein-before mentioned does any of the following things; (that is to say,)

(1) Impedes or hinders any such person from so passing or repassing, with or without carriages, horses, and servants, by locking his gates, refusing, upon request, to open the same, or otherwise however;

(2) Impedes or hinders the deposit of any cargo or other article recovered from any such ship or boat, as herein-before mentioned;

(3) Prevents such cargo or other article from remaining so deposited for a reasonable time, until the same can be removed to a safe place of public deposit;

He shall for every such offence incur a penalty not exceeding one hundred pounds.

Power of receiver to institute examination with respect to ships in distress.

448. Any receiver, or in his absence any justice of the peace, shall, as soon as conveniently may be, examine upon oath (which oath they are hereby respectively empowered to administer) any person belonging to any ship which may be or may have been in distress on the coasts of the United Kingdom, or any other person who may be able to give any account thereof or of the cargo or stores thereof, as to the following matters; (that is to say,)

(1) The name and description of the ship;

(2) The name of the master and of the owners;

(3) The names of the owners of the cargo;

(4) The ports or places from and to which the ship was bound;

(5) The occasion of the distress of the ship;

(6) The services rendered;

(7) Such other matters or circumstances relating to such ship, or to the cargo on board the same, as the receiver or justice thinks necessary:

And such receiver or justice shall take the examination down in writing, and shall make two copies of the same, of which he shall send one to the Board of Trade, and the other to the Secretary of the Committee for managing the Affairs of Lloyd's in London, and such last-mentioned copy shall be placed by the said secretary in some conspicuous situation, for the inspection of persons desirous of examining the same; and for the purposes of such examination

every such receiver or justice as aforesaid shall have all the powers given by the first part of this Act to inspectors appointed by the Board of Trade.

Appointment and duties of receivers.

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Rules to be observed by persons finding wreck.

450. The following rules shall be observed by any person finding or taking possession of wreck within the United Kingdom; (that is to say,)

(1) If the person so finding or taking possession of the same is the owner, he shall as soon as possible give notice to the receiver of the district within which such wreck is found, stating that he has so found or taken possession of the same; and he shall describe in such notice the marks by which such wreck is distinguished:

(2) If any person not being the owner finds or takes possession of any wreck, he shall as soon as possible deliver the same to such receiver as aforesaid:

And any person making default in obeying the provisions of this section shall incur the following penalties; (that is to say,)

(3) If he is the owner, and makes default in performing the several things the performance of which is hereby imposed on an owner,

He shall incur a penalty not exceeding one hundred pounds:

(4) If he is not the owner, and makes default in performing the several things the performance of which is hereby imposed on any person not being an owner,

He shall forfeit all claim to salvage;

He shall pay to the owner of such wreck, if the same is claimed, but if the same is unclaimed, then to the person entitled to such unclaimed wreck, double the value of such wreck (such value to be recovered in the same way as a penalty of like amount); and

He shall incur a penalty not exceeding one hundred pounds.

Power for receivers to seize concealed wreck.

451. If any receiver suspects or receives information that any wreck is secreted or in the possession of some person who is not the owner thereof, or otherwise improperly dealt with, he may apply to any justice of the peace for a warrant, and such justice shall have power to grant a warrant, by virtue whereof it shall be lawful for the receiver to enter into any house or other place, wherever situate, and also into any ship or boat, and to search for, and to seize and detain, any such wreck as aforesaid there found; and if any such seizure is made in consequence of information that may have been given by any person to the receiver, the informer shall be entitled by way of salvage to such sum, not exceeding in any case five pounds, as the receiver may allow.

Notice of wreck to be given by receiver.

452. Every receiver shall within forty-eight hours after taking possession of any wreck cause to be posted up in the custom house of the port nearest

Appointment and duties of receivers

to the place where such wreck was found or seized a description of the same, and of any marks by which it is distinguished, and shall also, if the value of such wreck exceeds twenty pounds, but not otherwise, transmit a similar description to the Secretary of the Committee of Lloyd's aforesaid; and such secretary shall post up the description so sent, or a copy thereof, in some conspicuous place, for the inspection of all persons desirous of examining the same.

Goods deemed perishable or of small value may be sold immediately.

453. In cases where any wreck in the custody of any receiver is under the value of five pounds, or is of so perishable a nature or so much damaged that the same cannot, in his opinion, be advantageously kept, or if the value thereof is not sufficient to defray the charge of warehousing, the receiver may sell the same before the expiration of the period herein-after mentioned, and the money raised by such sale, after defraying the expenses thereof, shall be held by the receiver for the same purposes and subject to the same claims for and to which the article sold would have been held and liable if it had remained unsold.

In cases where any lord of the manor or other person is entitled to unclaimed wreck, receiver to give notice to him.

454. In cases where any admiral, vice-admiral, lord of the manor, or other person is entitled for his own use to unclaimed wreck found on any place situate within a district for which a receiver is appointed, such admiral vice-admiral, lord of the manor, or other person shall deliver to such receiver a statement containing the particulars of his title, and the address to which notices are to be sent; and upon such statement being so delivered, and proof made to the satisfaction of the receiver of the validity of such title, it shall be his duty, whenever he takes possession of any wreck found at any such place, to send within forty-eight hours thereafter a description of the same, and of any marks by which it is distinguished, directed to such address as aforesaid.

Payments to be made to receiver.

455. There shall be paid to all receivers appointed under this Act the expenses properly incurred by them in the performance of their duties, and also in respect of the several matters specified in the table marked V. in the schedule hereto such fees, not exceeding the amounts therein mentioned, as may from time to time be directed by the Board of Trade; and the receiver shall have the same lien and be entitled to the same remedies for the recovery of such expenses and fees as a salvor has or is entitled to in respect of salvage due to him; but, save as aforesaid, no receiver appointed under this Act shall, as such, be entitled to any remuneration whatsoever.

Disputes as to sums payable to receiver to be determined by Board of Trade.

456. Whenever any dispute arises in any part of the United Kingdom as to the amount payable to any receiver in respect of expenses or fees, such dispute shall be determined by the Board of Trade, whose decision shall be final.

Appointment and duties of receivers.

Application of fees.

457. All fees received by any receiver appointed under this Act in respect of any services performed by him as receiver shall be carried to and form part of the Mercantile Marine Fund, and a separate account thereof shall be kept, and the monies arising therefrom shall be applied in defraying any expenses duly incurred in carrying into effect the purposes of the eighth part of this Act, in such manner as the Board of Trade directs.

Salvage in the United Kingdom.

Salvage in the United Kingdom.

Salvage in respect of services rendered in the United Kingdom.

458. In the following cases; (that is to say,)

Whenever any ship or boat is stranded or otherwise in distress on the shore of any sea or tidal water situate within the limits of the United Kingdom, and services are rendered by any person,

(1) In assisting such ship or boat;

(2) In saving the lives of the persons belonging to such ship or boat;

(3) In saving the cargo or apparel of such ship or boat, or any portion thereof;

And whenever any wreck is saved by any person other than a receiver within the United Kingdom;

There shall be payable by the owners of such ship or boat, cargo, apparel, or wreck, to the person by whom such services or any of them are rendered, or by whom such wreck is saved, a reasonable amount of salvage, together with all expenses properly incurred by him in the performances of such services or the saving of such wreck, the amount of such salvage and expenses (which expenses are herein-after included under the term salvage) to be determined, in case of dispute, in manner herein-after mentioned.

Salvage for life may be paid by Board of Trade out of Mercantile Marine Fund

459. Salvage in respect of the preservation of the life or lives of any person or persons belonging to any such ship or boat as aforesaid shall be payable by the owners of the ship or boat in priority to all other claims for salvage; and in cases where such ship or boat is destroyed, or where the value thereof is insufficient, after payment of the actual expenses incurred, to pay the amount of salvage due in respect of any life or lives, the Board of Trade may in its discretion award to the salvors of such life or lives out of the Mercantile Marine Fund such sum or sums as it deems fit, in whole or part satisfaction of any amount of salvage so left unpaid in respect of such life or lives.

Disputes as to salvage, how to be settled.

460. Disputes with respect to salvage arising within the boundaries of the Cinque Ports shall be determined in the manner in which the same have hitherto been determined; but whenever any dispute arises elsewhere in the

Salvage in the United Kingdom.

United Kingdom between the owners of any such ship, boat, cargo, apparel, or wreck as aforesaid, and the salvors, as to the amount of salvage, and the parties to the dispute cannot agree as to the settlement thereof by arbitration or otherwise,

Then, if the sum claimed does not exceed two hundred pounds,

Such dispute shall be referred to the arbitration of any two justices of the peace resident as follows; (that is to say,)

In case of wreck, resident at or near the place where such wreck is found:

In case of services rendered to any ship or boat, or to the persons, cargo, or apparel belonging thereto, resident at or near the place where such ship or boat is lying, or at or near the first port or place in the United Kingdom into which such ship or boat is brought after the occurrence of the accident by reason whereof the claim to salvage arises:

But if the sum claimed exceeds two hundred pounds,

Such dispute may, with the consent of the parties, be referred to the arbitration of such justices as aforesaid, but if they do not consent, shall in England be decided by the High Court of Admiralty of England, in Ireland by the High Court of Admiralty of Ireland, and in Scotland by the Court of Session; subject to this proviso, that if the claimants in such dispute do not recover in such Court of Admiralty or Court of Session a greater sum than two hundred pounds, they shall not, unless the court certifies that the case is a fit one to be tried in a superior court, recover any costs, charges, or expenses incurred by them in the prosecution of their claim:

And every dispute with respect to salvage may be heard and adjudicated upon on the application either of the salvor or of the owner of the property salved, or of their respective agents.

Manner in which justices may decide disputes.

461. Whenever in pursuance of this Act any dispute as to salvage is referred to the arbitration of two justices, they may either themselves determine the same, with power to call to their assistance any person conversant with maritime affairs as assessor, or they may, if a difference of opinion arises between them, or without such difference, if they think fit, appoint some person conversant with maritime affairs as umpire to decide the point in dispute; and such justices or their umpire shall make an award as to the amount of salvage payable within the following times, that is to say, the said justices within forty-eight hours after such dispute has been referred to them, and the said umpire within forty-eight hours after his appointment, with power nevertheless for such justices or umpire by writing under their or his

hands or hand to extend the time within which they and he are hereby respectively directed to make their or his award.

Salvage in the United Kingdom.

Costs of arbitration.

462. There shall be paid to every assessor and umpire who may be so appointed as aforesaid in respect of his services such sum not exceeding five pounds as the Board of Trade may from time to time direct; and all the costs of such arbitration, including any such payments as aforesaid, shall be paid by the parties to the dispute, in such manner and in such shares and proportions as the said justices or as the said umpire may direct by their or his award.

Justices may call for documents, and administer oaths.

463. The said justices or their umpire may call for the production of any documents in the possession or power of either party which they or he may think necessary for determining the question in dispute, and may examine the parties or their witnesses on oath, and administer the oaths necessary for that purpose.

Appeal to Courts of Admiralty.

464. If any person is aggrieved by the award made by such justices or such umpire as aforesaid, he may in England appeal to the High Court of Admiralty of England, in Ireland to the High Court of Admiralty of Ireland, and in Scotland to the Court of Session; but no such appeal shall be allowed unless the sum in dispute exceeds fifty pounds, nor unless within ten days after the date of the award the appellant gives notice to the justices to whom the matter was referred of his intention to appeal, nor unless the appellant proceeds to take out a monition, or to take such other proceeding as according to the practice of the court of appeal is necessary for the institution of an appeal, within twenty days from the date of the award.

Justices to transmit copy of proceedings and certificate of value to court of appeal.

465. Whenever any appeal is made in manner herein-before provided, the justices shall transmit to the proper officer of the court of appeal a copy on unstamped paper, certified under their hands to be a true copy, of the proceedings had before such justices or their umpire, if any, and of the award so made by them or him, accompanied with their or his certificate in writing of the gross value of the article respecting which salvage is claimed; and such copy and certificate shall be admitted in the court of appeal as evidence in the cause.

Payment of salvage, to whom to be made in case of dispute as to apportionment.

466. Whenever the aggregate amount of salvage payable in respect of salvage services rendered in the United Kingdom has been finally ascertained, either by agreement or by the award of such justices or their umpire, but a dispute arises as to the apportionment thereof amongst several claimants, then, if the amount does not exceed two hundred pounds, it shall be lawful for the party liable to pay the amount so due to apply to the receiver of the district for liberty to pay the amount so ascertained to him; and he shall, if he thinks fit, receive the same accordingly, and grant a certificate under his

Salvage in the United Kingdom.

hand, stating the fact of such payment, and the services in respect of which it is made; and such certificate shall be a full discharge and indemnity to the person or persons to whom it is given, and to their ship, boats, cargo, apparel, and effects, against the claims of all persons whomsoever in respect of the services therein mentioned; but if the amount exceeds two hundred pounds, it shall be apportioned in manner herein-after mentioned.

Apportionment of salvage.

467. Upon the receipt of any such amount as aforesaid the receiver shall with all convenient speed proceed to distribute the same among the several persons entitled thereto, upon such evidence and in such shares and proportions as he thinks fit, with power to retain any monies that may appear to him to be payable to any absent parties; but any distribution made in pursuance of this section shall be final and conclusive against the rights of all persons claiming to be entitled to any portion of the monies so distributed.

Manner of enforcing payment of salvage.

468. Whenever any salvage is due to any person under this Act, the receiver shall act as follows; (that is to say,)

(1) If the same is due in respect of services rendered in assisting any ship or boat, or in saving the lives of persons belonging to the same, or the cargo or apparel thereof,

He shall detain such ship or boat and the cargo and apparel belonging thereto until payment is made, or process has been issued by some competent court for the detention of such ship, boat, cargo, or apparel:

(2) If the same is due in respect of the saving of any wreck, and such wreck is not sold as unclaimed in pursuance of the provisions herein-after contained,

He shall detain such wreck until payment is made, or process has been issued in manner aforesaid:

But it shall be lawful for the receiver, if at any time previously to the issue of such process security is given to his satisfaction for the amount of salvage due, to release from his custody any ship, boat, cargo, apparel, or wreck so detained by him as aforesaid; and in cases where the claim for salvage exceeds two hundred pounds it shall be lawful in England for the High Court of Admiralty of England, in Ireland for the High Court of Admiralty of Ireland, and in Scotland for the Court of Session, to determine any question that may arise concerning the amount of the security to be given or the sufficiency of the sureties; and in all cases where bond or other security is given to the receiver for an amount exceeding two hundred pounds it shall be lawful for the salvor, or for the owner of the property salved, or their respective agents, to institute proceedings in such last-mentioned courts for the purpose of having the questions

arising between them adjudicated upon, and the said courts may enforce payment of the said bond or other security, in the same manner as if bail had been given in the said courts.

Salvage in the United Kingdom.

Power of receiver to sell property salved in cases of non-payment.

469. Whenever any ship, boat, cargo, apparel, or wreck is detained by any receiver for nonpayment of any sums so due as aforesaid, and the parties liable to pay the same are aware of such detention, then, in the following cases; (that is to say,)

(1) In cases where the amount is not disputed, and payment thereof is not made within twenty days after the same has become due;

(2) In cases where the amount is disputed, but no appeal lies from the first tribunal to which the dispute is referred, and payment thereof is not made within twenty days after the decision of such first tribunal;

(3) In cases where the amount is disputed, and an appeal lies from the decision of the first tribunal to some other tribunal, and payment thereof is not made within such twenty days as last aforesaid, or such monition as herein-before mentioned is not taken out within such twenty days, or such other proceedings as are according to the practice of such other tribunal necessary for the prosecution of an appeal are not instituted within such twenty days;

The receiver may forthwith sell such ship, boat, cargo, apparel, or wreck, or a sufficient part thereof, and out of the proceeds of the sale, after payment of all expenses thereof, defray all sums of money due in respect of expenses, fees, and salvage, paying the surplus, if any, to the owners of the property sold, or other the parties entitled to receive the same.

Subject to payment of expenses, fees, and salvage, owner entitled to wreck.

470. Subject to the payment of such expenses, fees, and salvage as aforesaid, the owner of any wreck who establishes his claim thereto to the satisfaction of the receiver within one year from the date at which such wreck has come into the possession of the receiver shall be entitled to have the same delivered up to him.

Unclaimed wreck in the United Kingdom.

Unclaimed Wreck in the United Kingdom.

Receiver to deliver up possession of unclaimed wreck to lord of manor or other person entitled.

471. In the event of no owner establishing a claim to wreck found in any place in the United Kingdom before the expiration of a year from the date at which the same has come into the possession of the receiver, then, if any such admiral, vice-admiral, lord of any manor, or other person as aforesaid has given notice to and has proved to the satisfaction of the receiver that he is entitled to wreck found at such place, the receiver shall, upon payment of all expenses, fees, and salvage due in respect of such wreck, deliver up possession thereof to such admiral, vice-admiral, lord of the manor, or other person; and

Unclaimed wreck in the United Kingdom.

in case of dispute as to the amount of the sums so payable, and also in case of default being made in payment thereof, such dispute shall be determined and payment enforced in the manner in which such amount and payment is hereby directed to be determined and enforced in cases where any owner establishes his claim to wreck.

Disputed title to wreck, how to be decided.

472. If any dispute arises between the receiver and any such admiral, vice-admiral, lord of any manor, or other person as aforesaid as to the validity of his title to wreck, or if divers persons claim to be entitled to wreck found at the same place, the matter in dispute may be decided by two justices in the same manner in which disputes as to salvage coming within the jurisdiction of justices are herein-before directed to be determined.

Appeal from decision of justices.

473. If any party to such dispute is unwilling to refer the same to two justices, or, having so referred the same, is dissatisfied with their decision, he may within three months from the expiration of such year as aforesaid, or from the date of such decision as aforesaid, as the case may be, take such proceedings as he may be advised in any court of law, equity, or Admiralty having jurisdiction in the matter, for establishing his title.

Power of the Board of Trade on behalf of the Crown to purchase rights to wreck.

474. The Board of Trade shall have power, with the consent of the Treasury, out of the revenue arising under the eighth part of this Act, for and on behalf of her Majesty, her heirs and successors, to purchase all such rights to wreck as may be possessed by any person or body corporate, other than her Majesty; and for the purpose of facilitating such purchases the provisions of the "Lands Clauses Consolidation Act, 1845," and the "Lands Clauses Consolidation (Scotland) Act, 1845," relating to the purchase of lands by agreement shall be incorporated with this Act; and in the construction of this Act and the said incorporated Acts this Act shall be considered to be the "Special Act"; and any such rights to wreck as aforesaid shall be considered as an interest in land authorized to be taken by the special Act, and her Majesty, her heirs and successors, shall be considered as the promoters of the undertaking.

Unclaimed wreck to be sold.

475. If no owner establishes his claim to wreck found at any place before the expiration of such period of a year as aforesaid, and if no admiral, vice-admiral, lord of any manor, or person, other than her Majesty, her heirs and successors, is proved to be entitled to such wreck, the receiver shall forthwith sell the same, and after payment of all expenses attending such sale, and deducting therefrom his fees, and all expenses (if any) incurred by him, and paying to the salvors such amount of salvage as the Board of Trade may in each case or by any general rule determine, pay the same into the receipt of her Majesty's Exchequer in such manner as the Treasury may direct, and the same shall be carried to and form part of the Consolidated Fund of the United Kingdom.

Jurisdiction of the High Court of Admiralty.

Jurisdiction of the High Court of Admiralty.

High Court of Admiralty may decide on all salvage cases, whether on sea or land.

476. SUBJECT to the provisions of this Act, the High Court of Admiralty shall have jurisdiction to decide upon all claims whatsoever relating to salvage, whether the services in respect of which salvage is claimed were performed upon the high seas, or within the body of any county, or partly in one place and partly in the other, and whether the wreck is found at sea or cast upon the land, or partly in the sea and partly on land.

Offences in respect of wreck.

Offences in respect of Wreck.

In case of ship wrecked being plundered by a tumultuous assemblage the hundred to be liable for damages.

477. WHENEVER any ship or boat is stranded or otherwise in distress on or near the shore of any sea or tidal water in the United Kingdom, and such ship or boat, or any part of the cargo or apparel thereof, is plundered, damaged, or destroyed by any persons riotously and tumultuously assembled together, whether on shore or afloat, full compensation shall be made to the owner of such ship, boat, cargo, or apparel, as follows; (that is to say,)

In England, by the inhabitants of the hundred, wapentake, ward, or district in the nature of a hundred, by whatever name denominated, in or nearest to which the said offence is committed, in manner provided by an Act of the eighth year of the reign of King George the Fourth, chapter thirty-one, in case of the destruction of churches and other buildings by a riotous assemblage, or as near thereto as circumstances permit: 7 & 8 Geo. 4. c. 31.

In Ireland, by the inhabitants of the county, county of a city or town, barony, town or towns, parish or parishes, in or nearest to which such offence is committed, in manner provided by an Act of the fourth year of the reign of King William the Fourth, chapter thirty-seven, for the recovery of satisfaction and amends for the malicious demolition of or injury to churches, chapels, and other buildings used for religious worship according to the usage of the United Church of England and Ireland, or as near thereto as circumstances permit: 3 & 4 Will. 4. c. 37. s. 72.

In Scotland, by the inhabitants of the county, city, or borough in or nearest to which such offence is committed, in manner provided by an Act of the first year of King George the First, statute two, chapter five, with respect to prosecutions for repairing the damages of any churches and other buildings, or as near thereto as circumstances permit. 1 Geo. 1. st. 2. c. 5.

Offences in respect of wreck.

Penalty for plundering in cases of ship-wreck, for obstructing the saving of ship-wrecked property, and for secreting the same.

478. Every person who does any of the following acts; (that is to say,)

(1) Wrongfully carries away or removes any part of any ship or boat stranded or in danger of being stranded or otherwise in distress on or near the shore of any sea or tidal water, or any part of the cargo or apparel thereof, or any wreck; or

(2) Endeavours in any way to impede or hinder the saving of such ship, boat, cargo, apparel, or wreck; or

(3) Secretes any wreck, or obliterates or defaces any marks thereon;

Shall, in addition to any other penalty or punishment he may be subject to under this or any other Act or law, for each such offence incur a penalty not exceeding fifty pounds; and every person, not being a receiver or a person herein-before authorized to take the command in cases of ships being stranded or in distress, or not acting under the orders of such receiver or person, who without the leave of the master endeavours to board any such ship or boat as aforesaid, shall for each offence incur a penalty not exceeding fifty pounds; and it shall be lawful for the master of such ship or boat to repel by force any such person so attempting to board the same.

Penalty for selling wreck in foreign ports.

479. If any person takes into any foreign port or place any ship or boat stranded, derelict, or otherwise in distress on or near the shore of the sea or of any tidal water situate within the limits of the United Kingdom, or any part of the cargo or apparel thereof, or any thing belonging thereto, or any wreck found within such limits as aforesaid, and there sells the same, he shall be guilty of felony, and be subject to penal servitude for a term not exceeding four years.

Dealers in marine stores and manufacturers of anchors.

Dealers in Marine Stores and Manufacturers of Anchors.

Regulations to be observed by dealers in marine stores.

480. Every person dealing in buying and selling anchors, cables, sails, or old junk, old iron, or marine stores of any description, shall conform to the following regulations; (that is to say,)

(1) He shall have his name, together with the words "Dealer in Marine Stores," painted distinctly in letters of not less than six inches in length on every warehouse or other place of deposit belonging to him;

If he does not, he shall incur a penalty not exceeding twenty pounds:

(2) He shall keep a book or books, fairly written, and shall enter therein an account of all such marine stores as he may from time to time become possessed of, stating, in respect of each article, the time at which and the person from whom he purchased or received the same, adding, in the case of every such last-mentioned person, a description of his business and place of abode;

Dealers in marine stores and manufacturers of anchors.

If he does not, he shall incur for the first offence a penalty not exceeding twenty pounds, and for every subsequent offence a penalty not exceeding fifty pounds:

(3) He shall not, by himself or his agents, purchase marine stores of any description from any person apparently under the age of sixteen years;

If he does so, he shall incur for the first offence a penalty not exceeding five pounds, and for every subsequent offence a penalty not exceeding twenty pounds:

(4) He shall not cut up any cable, or any similar article, exceeding five fathoms in length, or unlay the same into twine or paper stuff, on any pretence whatever, without obtaining such permit and publishing such notice of his having so obtained the same as is hereinafter mentioned;

If he does so, he shall incur for the first offence a penalty not exceeding twenty pounds, and for every subsequent offence a penalty not exceeding fifty pounds.

Manner of obtaining permit to cut up cables.

481. In order to obtain such permit as aforesaid, a dealer in marine stores shall make a declaration before some justice of the peace having jurisdiction over the place where such dealer resides, containing the following particulars; (that is to say,)

(1) A statement of the quality and description of the cable or other like article about to be cut up or unlaid:

(2) A statement that he purchased or otherwise acquired the same bonâ fide and without fraud, and without any knowledge or suspicion that the same had been come by dishonestly:

(3) A statement of the name and description of the person from whom he purchased or received the same:

And it shall be lawful for the justice before whom any such declaration is made, or for the receiver of the district in which such dealer in marine stores resides, upon the production of any such declaration as aforesaid, to grant a permit authorizing him to cut up or unlay such cable or other like article.

Permit to be advertised before dealer proceeds to act thereon.

482. No dealer in marine stores who has obtained such permit as aforesaid shall proceed by virtue thereof to cut up or unlay any cable or other like article until he has for the space of one week at the least before doing any such act published in some newspaper published nearest to the place where he resides one or more advertisements notifying the fact of his having so obtained a permit, and specifying the nature of the cable or other article mentioned in the permit, and the place where the same is deposited, and the time at which the same is intended to be so cut up or unlaid; and if any

Dealers in marine stores and manufacturers of anchors.

person suspects or believes that such cable or other article is his property, he may apply to any justice of the peace for a warrant; and such justice of the peace may, on the applicant making oath, or, if a person entitled to make an affirmation, making an affirmation in support of such his suspicion or belief, grant a warrant by virtue whereof the applicant shall be entitled to require the production by such dealer as aforesaid of the cable or other article mentioned in the permit, and also of the book of entries herein-before directed to be kept by every dealer in marine stores, and upon such cable or other article and book of entries being produced, to inspect and examine the same; and if any dealer in marine stores makes default in complying with any of the provisions of this section, he shall for the first offence incur a penalty not exceeding twenty pounds, and for every subsequent offence a penalty not exceeding fifty pounds.

Manufacturers to place marks on anchors.

483. Every manufacturer of anchors shall in case of each anchor which he manufactures mark in legible characters on the crown, and also on the shank under the stock, his name or initials, with the addition of a progressive number, and the weight of such anchor; and if he makes default in doing so, he shall for each offence incur a penalty not exceeding five pounds.

Salvage by H. M. ships.

Salvage by Her Majesty's Ships.

No claim for salvage services to be allowed in respect of loss or risk of her Majesty's ships or property.

484. In cases where salvage services are rendered by any ship belonging to her Majesty, or by the commander or crew thereof, no claim shall be made or allowed for any loss, damage, or risk thereby caused to such ship, or to the stores, tackle, or furniture thereof, or for the use of any stores or other articles belonging to her Majesty supplied in order to effect such services, or for any other expense or loss sustained by her Majesty by reason of such services.

Claims for salvage by her Majesty's officers not to be determined without consent of Admiralty.

485. No claim whatever on account of any salvage services rendered to any ship or cargo or to any appurtenances of any ship by the commander or crew or part of the crew of any of her Majesty's ships shall be finally adjudicated upon unless the consent of the Admiralty has first been obtained, such consent to be signified by writing under the hand of the Secretary to the Admiralty; and if any person who has originated proceedings in respect of any such claim fails to prove such consent to the satisfaction of the court, his suit shall stand dismissed, and he shall pay all the costs of such proceedings: Provided, that any document purporting to give such consent, and to be signed by the Secretary to the Admiralty, shall be primâ facie evidence of such consent having been given.

Steps to be taken when salvage ser-

486. Whenever services for which salvage is claimed are rendered to any ship or cargo, or to any part of any ship or cargo, or to any appurtenances of

Salvage by H M ships.

vices have been rendered by her Majesty's ships abroad.

any ship, at any place out of the United Kingdom and the four seas adjoining thereto, by the commander or crew or part of the crew of any of her Majesty's ships, the property alleged to be salved shall, if the salvor is justified by the circumstances of the case in detaining it at all, be taken to some port where there is either a consular officer or a Vice-Admiralty Court; and within twenty-four hours after arriving at such port the said salvor and the master or other person in charge of the property alleged to be salved shall each deliver to the consular officer or Vice-Admiralty judge there a statement, verified on oath, specifying, so far as they respectively can, and so far as the particulars required apply to the case,

(1) The place, condition, and circumstances in which the said ship, cargo, or property was at the time when the services were rendered for which salvage is claimed:

(2) The nature and duration of the services rendered:

And the salvor shall add to his statement,

(3) The proportion of the value of the said ship, cargo, and property, and of the freight, which he claims for salvage, or the values at which he estimates the said ship, freight, cargo, and property respectively, and the several amounts that he claims for salvage in respect of the same:

(4) Any other circumstances he thinks relevant to the said claim:

And the said master or other person in charge of the said ship, cargo, or property shall add to his statement,

(3) A copy of the certificate of registry of the said ship, and of the indorsements thereon, stating any change which (to his knowledge or belief) has occurred in the particulars contained in such certificate; and stating also, to the best of his knowledge and belief, the state of the title to the ship for the time being, and of the incumbrances and certificates of mortgage or sale, if any, affecting the same, and the names and places of business of the owners and incumbrancers:

(4) The name and place of business or residence of the freighter (if any) of the said ship, and the freight to be paid for the voyage she is then on:

(5) A general account of the quantity and nature of the cargo at the time the salvage services were rendered:

(6) The name and place of business or residence of the owner of such cargo, and of the consignee thereof:

(7) The values at which the said master estimates the said ship, cargo, and property, and the freight, respectively, or, if he thinks fit, in

Salvage by H. M. ships.

lieu of such estimated value of the cargo, a copy of the ship's manifest:

(8) The amounts which the master thinks should be paid as salvage for the services rendered:

(9) An accurate list of the property saved, in cases where the ship is not saved:

(10) An account of the proceeds of the sale of the said ship, cargo, or property, in cases where the same or any of them are sold at such port as aforesaid:

(11) The number, capacities, and condition of the crew of the said ship at the time the said services were rendered:

(12) Any other circumstances he thinks relevant to the matters in question:

(13) A statement of his willingness to execute a bond, in the form in the table marked W. in the schedule hereto, in such amount as the said consular officer or Vice-Admiralty judge may fix.

Consular officer or judge to fix amount for which a bond is to be given.

487. The said consular officer or judge, as the case may be, shall within four days after receiving the aforesaid statements fix the amount to be inserted in the said bond at such sum as he thinks sufficient to answer the demand for the salvage services rendered; but such sum shall not exceed one half of the value which in his estimation the said ship, freight, and cargo, or any parts thereof in respect of which salvage is claimed, are worth; and the said consular officer or judge may, if either of the aforesaid statements is not delivered to him within the time hereby required, proceed ex parte, but he shall in no case under this Act require the cargo to be unladen; and the said consular officer may in any proceeding under this Act relating to salvage take affidavits and receive affirmations.

On master executing bond, the right of detention to cease.

488. The said consular officer or judge shall send notice of the sum which he has so fixed as aforesaid to the said salvor and the said master; and upon such master executing a bond in such form as aforesaid, with the said sum inserted therein, in the presence of the said officer or judge (who shall attest the same), and delivering the same to the said salvor, the right of the said salvor to detain or retain possession of the said ship, cargo, or property, or any of them, in respect of the said salvage claim, shall cease.

Provision for additional security in the case of ships owned by persons resident out of her Majesty's dominions

489. If the ship, cargo, or property in respect of which the claim for salvage is made is not owned by persons domiciled in her Majesty's dominions, the right of the salvor to detain or retain possession thereof shall not cease unless the master procures, in addition to the said bond, such security for the due performance of the conditions thereof as the said officer or judge considers sufficient for the purpose, and places the same in the possession or custody of

the said officer or judge, or, if the salvor so desires, in the possession or custody of the said officer or judge jointly with any other person whom the said salvor appoints for the purpose.

Salvage by H. M. ships.

490. The said consular officer or judge shall at the earliest opportunity transmit the said statements and documents so sent to him as aforesaid, and a notice of the sum he has so fixed as aforesaid, to the High Court of Admiralty of England, or if the said salvor and the said master or other person in charge as aforesaid agree that the said bond shall be adjudicated upon by any Vice-Admiralty Court, to such court.

Documents to be sent to England.

491. The said bond shall bind the respective owners of the said ship, freight, and cargo, and their respective heirs, executors, and administrators, for the salvage adjudged to be payable in respect of the said ship, freight, and cargo respectively.

Whom the bond shall bind.

492. The said bond shall be adjudicated on and enforced by the High Court of Admiralty in England, or if the said salvor and master at the time of the execution of the said bond agree upon any Vice-Admiralty Court, then by such Vice-Admiralty Court; and any such Vice-Admiralty Court may in every proceeding under this Act have and exercise all powers and authorities whatsoever which the said High Court of Admiralty now has or at any time may have in any proceeding whatsoever before it; and in cases where any security for the due performance of the conditions of the said bond has been placed in the possession or custody of the said consular officer or Vice-Admiralty judge, or of such officer or judge jointly with any other person, the person or persons having the custody of such security shall respectively deal with the same in such manner as the court that adjudicates on the bond directs.

Court in which it is to be adjudicated, on.

493. The said High Court of Admiralty shall have power to enforce any bond given in pursuance of this Act in any Vice-Admiralty Court in any part of her Majesty's dominions; and all courts in Scotland, Ireland, and the Islands of Jersey, Guernsey, Alderney, Sark, and Man exercising Admiralty jurisdiction shall, upon application, aid and assist the High Court of Admiralty in enforcing the said bonds.

Power of High Court of Admiralty to enforce bonds.

494. Any such salvor as aforesaid of any ship, cargo, or property who elects not to proceed under this Act shall have no power to detain the said ship, cargo, or property, but may proceed otherwise for the enforcement of his salvage claim as if this Act had not been passed; and nothing in this Act contained shall abridge or affect the rights of salvors, except in the cases by it provided for.

Saving clause.

495. All bonds, statements, agreements, and other documents made or executed in pursuance of the eighth part of this Act shall, if so made or executed out of the United Kingdom, be exempt from stamp duty.

Documents free from duty.

Salvage by H. M. ships.

Punishment for forgery and false representations

496. EVERY person who, in any proceeding under provisions contained in the eighth part of this Act relating to salvage by her Majesty's ships, forges, assists in forging, or procures to be forged, fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any document, and every person who in any such proceeding puts off or makes use of any such forged or altered document, knowing the same to be so forged or altered, or who in any such proceeding gives or makes, or assists in giving or making, or procures to be given or made, any false evidence or representation, knowing the same to be false, shall be punishable with imprisonment, with or without hard labour, for any period not exceeding two years, or, if summarily prosecuted and convicted, by imprisonment, with or without hard labour, for any period not exceeding six months.

Salvage (general)

Salvage, General.

Voluntary agreement may be made, which shall have the same effect as the bond above mentioned.

497. WHENEVER services for which salvage is claimed are rendered either by the commander or crew or part of the crew of any of her Majesty's ships, or of any other ship, and the salvor voluntarily agrees to abandon his lien upon the ship, cargo, and property alleged to be salved, upon the master or other person in charge thereof entering into a written agreement, attested by two witnesses, to abide the decision of the said High Court of Admiralty or of any Vice-Admiralty Court, and thereby giving security in that behalf to such amount as may be agreed on by the parties to the said agreement, such agreement shall bind the said ship and the said cargo and the freight payable therefor respectively, and the respective owners of the said ship, freight, and cargo for the time being, and their respective heirs, executors, and administrators, for the salvage which may be adjudged to be payable in respect of the said ship, cargo, and freight respectively, to the extent of the security so given as aforesaid, and may be adjudicated upon and enforced in the same manner as the bonds provided for by the eighth part of this Act in the case of detention for salvage services rendered by her Majesty's ships; and upon such agreement being made the salvor and the master or other person in charge as aforesaid shall respectively make such statements as are hereinbefore required to be made by them in case of a bond being given, except that such statements need not be made upon oath; and the salvor shall, as soon as practicable, transmit the said agreement and the said statements to the court in which the said agreement is to be adjudicated upon.

Power for courts having Admiralty jurisdiction to apportion salvage.

498. WHENEVER the aggregate amount of salvage payable in respect of salvage services rendered in the United Kingdom has been finally ascertained, and exceeds two hundred pounds, and whenever the aggregate amount of salvage payable in respect of salvage services rendered elsewhere has been

finally ascertained, whatever such amount may be, then, if any delay or dispute arises as to the apportionment thereof, any court having Admiralty jurisdiction may cause the same to be apportioned amongst the persons entitled thereto in such manner as it thinks just; and may for that purpose, if it thinks fit, appoint any person to carry such apportionment into effect, and may compel any person in whose hands or under whose control such amount may be to distribute the same, or to bring the same into court, to be there dealt with as the court may direct, and may for the purposes aforesaid issue such monitions or other processes as it thinks fit.

Salvage (general).

Miscellaneous.

Miscellaneous

Foreign goods found derelict to be subject to the same duties as on importation.

499. All wreck, being foreign goods brought or coming into the United Kingdom or the Isle of Man, shall be subject to the same duties as if the same were imported into the United Kingdom or the Isle of Man respectively; and if any question arises as to the origin of such goods, they shall be deemed to be the produce of such country as the Commissioners of Customs may upon investigation determine.

Goods saved from ships wrecked to be forwarded to the ports of their original destination.

500. The Commissioners of Customs and Excise shall permit all goods, wares, and merchandise saved from any ship stranded or wrecked on its homeward voyage to be forwarded to the port of its original destination, and all goods, wares, and merchandise saved from any ship stranded or wrecked on its outward voyage to be returned to the port at which the same were shipped; but such Commissioners are to take security for the due protection of the revenue in respect of such goods, wares, and merchandise.

Provision as to certain terms in Scotland.

501. All matters and things that may in pursuance of the eighth part of this Act be done by or to any justice, or any two justices, may in Scotland be done also by or to the sheriff of the county, including the sheriff substitute; and the expression "lord or lady of a manor" shall in the eighth part of this Act, so far as regards Scotland, include "heritable proprietor duly infeft."

Part IX.

Liability of Shipowners.

Application.

Application.

Application of part IX. of Act.

502. The ninth part of this Act shall apply to the whole of her Majesty's dominions.

Limitation of liability.

Limitation of Liability.

Owner not liable in respect of certain articles.

503. No owner of any sea-going ship or share therein shall be liable to make good any loss or damage that may happen without his actual fault or privity of or to any of the following things; (that is to say,)

(1) Of or to any goods, merchandise, or other things whatsoever taken in or put on board any such ship, by reason of any fire happening on board such ship;

(2) Of or to any gold, silver, diamonds, watches, jewels, or precious stones taken in or put on board any such ship, by reason of any robbery, embezzlement, making away with or secreting thereof, unless the owner or shipper thereof has, at the time of shipping the same, inserted in his bills of lading or otherwise declared in writing to the master or owner of such ship the true nature and value of such articles;

To any extent whatever.

Measure of owner's liability.

504. No owner of any sea-going ship or share therein shall, in cases where all or any of the following events occur without his actual fault or privity; (that is to say,)

(1) Where any loss of life or personal injury is caused to any person being carried in such ship;

(2) Where any damage or loss is caused to any goods, merchandise, or other things whatsoever on board any such ship;

(3) Where any loss of life or personal injury is by reason of the improper navigation of such sea-going ship as aforesaid caused to any person carried in any other ship or boat;

(4) Where any loss or damage is by reason of any such improper navigation of such sea-going ship as aforesaid caused to any other ship or boat, or to any goods, merchandise, or other things whatsoever, on board any other ship or boat;

Be answerable in damages to an extent beyond the value of his ship and the freight due or to grow due in respect of such ship during the voyage which at the time of the happening of any such events as aforesaid is in prosecution or contracted for, subject to the following proviso, (that is to say,) that in no case where any such liability as aforesaid is incurred in respect of loss of life or personal injury to any passenger shall the value of any such ship and the freight thereof be taken to be less than fifteen pounds per registered ton. [Repealed, 25 & 26 Vict. c. 63. s. 2.]

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Provision for separate losses.

506. The owner of every sea-going ship or share therein shall be liable in respect of every such loss of life, personal injury, loss of or damage to goods as aforesaid arising on distinct occasions to the same extent as if no other loss, injury, or damage had arisen.

Mode of procedure

Mode of Procedure.

In case of loss

507. Whenever any such liability as aforesaid has been or is alleged to

Mode of procedure.

of life or personal injury, Board of Trade may direct proceedings.

have been incurred in respect of loss of life or personal injury, the Board of Trade may, in its discretion, after giving not less than three days notice by post or otherwise to the party to be made defendant or defender, by warrant sealed with the seal of such Board, or signed by one of its secretaries or assistant secretaries, require the sheriff having jurisdiction over any place in the United Kingdom to summon a jury at a time and place to be specified in such warrant for the purpose of determining the following question; (that is to say,)

The number, names, and descriptions of all persons killed or injured by reason of any wrongful act, neglect, or default;

And upon the receipt of such warrant the sheriff shall summon a jury of twenty-four indifferent persons, duly qualified to act as common jurymen in the superior courts, to meet at such time and place as aforesaid.

Either party may require question to be tried by a special jury.

508. If either party to the inquiry desire any such question as aforesaid to be tried before a special jury, such question shall be so tried, provided that notice of such desire, if coming from the other party, is given to the Board of Trade before it has issued its warrant to the sheriff; and for that purpose the Board of Trade shall, by its warrant to the sheriff, require him to nominate a special jury for such trial; and thereupon the sheriff shall, as soon as conveniently may be after the receipt by him of such warrant, summon both the parties to appear before him, by themselves or their attornies or agents, at some convenient time and place appointed by him, for the purpose of nominating a special jury; and at the place and time so appointed the sheriff shall proceed to nominate and strike a special jury in the manner in which such juries are required by the laws for the time being in force to be nominated or struck by the proper officers of the superior courts; and the sheriff shall appoint a day, and shall on the day so appointed proceed to reduce the said special jury to the number of twenty, in the manner used and accustomed by the proper officers of the superior courts.

Provisions for conduct of proceedings.

509. The following provisions shall be applicable to the conduct of proceedings by the Board of Trade; (that is to say,)

(1) The sheriff shall preside at such inquiry, and the Board of Trade shall be deemed in England and Ireland to be the plaintiff, and in Scotland the pursuer, both of which terms are herein-after included in the term plaintiff, with power to appoint any agent to act on its behalf, and shall have all such rights and privileges as the plaintiff is entitled to in actions at law; and the owner or owners of the ship or ships by whom such liability as last aforesaid is alleged to have been incurred shall be deemed in England and Ireland to be the defendant, and in Scotland the defender, both of which terms are herein-after included in the term defendant:

Mode of procedure.

(2) Not less than ten days notice of the time and place of the inquiry shall be served by the Board of Trade on the defendant:

(3) Service on the master of any ship shall be deemed good service on the owner thereof, and the master shall in respect of the proceedings on such inquiry be deemed the agent and representative of the owner, with power to appear for him on such inquiry, and to do all matters and things which he might himself have done:

(4) If the defendant does not appear at the time of such inquiry, the same shall be proceeded with as if he had appeared, upon due proof of service of notice having been made on him in pursuance of this Act:

(5) The empanelling of the jury and the summoning and attendance of witnesses shall be conducted and enforced in England and Ireland in manner provided by the Lands Clauses Consolidation Act, 1845, in cases of disputed compensation as to land, and in Scotland in manner provided by the Lands Clauses Consolidation (Scotland) Act, 1845, in like cases, or as near thereto as circumstances permit; and all provisions in the said Acts having reference to cases where any question of disputed compensation requires to be determined by the verdict of a jury shall, with the requisite alterations, be considered as incorporated with this Act, and to have reference to cases where the question of the liability of any owner in respect of any such accident as aforesaid requires to be determined by the verdict of a jury:

(6) In England and Ireland the sheriff shall, if the Board of Trade so requires, or if the defendant so requires and the Board of Trade consents thereto, appoint as assessor a barrister-at-law of competent knowledge and standing:

(7) The costs incurred by all parties in and incidental to any such inquiry as aforesaid shall in England and Ireland be taxed by the master of one of her Majesty's Superior Courts of Common Law as between attorney and client, and in Scotland by the auditor of the Court of Session as between agent and client; and shall, if the verdict in any inquiry is in favour of the plaintiff, be paid by the defendant, but if such verdict is in favour of the defendant, be paid by the Board of Trade out of the Mercantile Marine Fund:

(8) The payment of all damages and costs in any such inquiry as aforesaid shall, upon application made to such superior court as aforesaid by the party entitled thereto, be enforced by rule or order of such court or a judge thereof, or otherwise as such court or judge thinks fit:

(9) The Board of Trade may make any compromise it thinks fit as to the damages payable in respect of personal injury, or of the death of any person; and any damages received in pursuance of such compromise shall, so far as the same extend, be applied in the same manner and be subject to the same rules as if the same were damages recovered on an inquiry instituted by the Board of Trade.

Mode of procedure.

510. THE following rules shall be observed as to the damages recovered in any such inquiry, and the application thereof; (that is to say,)

Rules as to damages and application thereof.

(1) The damages payable in each case of death or injury shall be assessed at thirty pounds:

(2) The damages found due on any such inquiry as aforesaid shall be the first charge on the aggregate amount for which the owner is liable, and shall be paid thereout in priority to all other claims:

(3) All such damages as aforesaid shall be paid to her Majesty's Paymaster General, and shall be distributed and dealt with by him in such manner as the Board of Trade directs; and in directing such distribution the Board of Trade shall have power in the first place to deduct and retain any costs incidental thereto; and in the next place, as regards the sums paid in respect of injuries, shall direct payment to each person injured of such compensation, not exceeding in any case the statutory amount, as the said Board thinks fit; and as regards the sums paid in respect of deaths, shall direct payment thereof for the benefit of the husband, wife, parent, and child of the deceased, or any of them, in such shares, upon such evidence, and in such manner, as the said Board thinks fit:

(4) The Board of Trade shall refund to the owner any surplus remaining under its control after making such distribution as aforesaid, and the sum so refunded shall form part of the residue herein-after mentioned:

(5) The Board of Trade shall not, nor shall any person acting under it, be liable to any action, suit, account, claim, or demand whatsoever for or in respect of any act or matter done, or omitted to be done, in the distribution of such damages as aforesaid:

(6) If the amount paid to her Majesty's Paymaster General in manner aforesaid is insufficient to meet the demands upon it, the several claims thereon shall abate proportionally.

511. AFTER the completion of such inquiry as aforesaid, if any person injured estimates the damages payable in respect of such injury, or if the executor or administrator of any deceased person estimates the damages

Any person who is dissatisfied with the amount of statutory

Mode of procedure.

damage may bring an action on his own account.

payable in respect of his death, at a greater sum than such statutory amount, or, in case of a compromise having been made by the Board of Trade, than the amount accepted by such Board by way of compensation for such injury or death as aforesaid, the person so estimating the same shall, upon repaying or obtaining the repayment by the Board of Trade to the owner of the amount paid by him to the Board of Trade in respect of such injury or death, be at liberty to bring an action for the recovery of damages, in the same manner as if no power of instituting an inquiry had herein-before been given to the Board of Trade, subject to the following proviso; (that is to say,) that any damages recoverable by such person shall be payable only out of the residue, if any, of the aggregate amount for which the owner is liable, after deducting all sums paid to her Majesty's Paymaster General in manner aforesaid; and if the damages recovered in such action do not exceed double the statutory amount, such person shall pay to the defendant in such action all the costs thereof, such costs to be taxed in England and Ireland as between attorney and client, and in Scotland as between agent and client.

If Board of Trade decline to institute proceedings, individuals may bring actions

512. In cases where loss of life or personal injury has occurred by any accident in respect of which the owner of any such ship as aforesaid is or is alleged to be liable in damages, no person shall be entitled to bring any action or institute any suit or other legal proceeding in the United Kingdom until the completion of the inquiry (if any) instituted by the Board of Trade, or until the Board of Trade has refused to institute the same; and the Board of Trade shall for the purpose of entitling any person to bring an action or institute a suit or other legal proceeding be deemed to have refused to institute such inquiry whenever notice has been served on it by any person of his desire to bring such action or institute such suit or other legal proceeding, and no inquiry is instituted by the Board of Trade in respect of the subject matter of such intended action, suit, or proceeding for the space of one month after the service of such notice.

Proceedings by Board of Trade after refusal.

513. Whenever the Board of Trade, having refused in manner aforesaid to institute any inquiry, afterwards determines to institute the same, the damages and costs (if any) recovered on such inquiry shall be payable rateably with and not in priority to the costs and damages recovered in any other action, suit, or legal proceeding.

Proceedings in case of several claims being made on owner of ship.

514. In cases where any liability has been or is alleged to have been incurred by any owner in respect of loss of life, personal injury, or loss of or damage to ships, boats, or goods, and several claims are made or apprehended in respect of such liability, then, subject to the right herein-before given to the Board of Trade of recovering damages in the United Kingdom in respect of loss of life or personal injury, it shall be lawful in England or Ireland for the

High Court of Chancery, and in Scotland for the Court of Session, and in any British possession for any competent court, to entertain proceedings at the suit of any owner for the purpose of determining the amount of such liability, subject as aforesaid, and for the distribution of such amount rateably amongst the several claimants, with power for any such court to stop all actions and suits pending in any other court in relation to the same subject matter; and any proceeding entertained by such Court of Chancery or Court of Session, or other competent court, may be conducted in such manner, and subject to such regulations as to making any persons interested parties to the same, and as to the exclusion of any claimants who do not come in within a certain time, and as to requiring security from the owner, and as to payment of costs, as the court thinks just.

Mode of procedure.

515. All sums of money paid for or on account of any loss or damage in respect whereof the liability of the owners of any ship is limited by the ninth part of this Act, and all costs incurred in relation thereto, may be brought into account among part owners of the same ship in the same manner as money disbursed for the use thereof.

Money paid for damage, how to be accounted for between part owners.

Saving Clause.

Saving clause.

516. Nothing in the ninth part of this Act contained shall be construed—

To lessen or take away any liability to which any master or seaman, being also owner or part owner of the ship to which he belongs, is subject in his capacity of master or seaman; or

To extend to any British ship not being a recognized British ship within the meaning of this Act.

Saving clause.

Part X.

Legal Procedure.

Application.

Application.

517. The tenth part of this Act shall in all cases where no particular country is mentioned apply to the whole of her Majesty's dominions.

Application of part X. of the Act.

Legal Procedure (General).

Legal procedure (general).

518. In all places within her Majesty's dominions, except Scotland, the offences herein-after mentioned shall be punished and penalties recovered in manner following; (that is to say,)

Punishment of offences, and recovery of penalties.

Legal procedure (general).

(1) Every offence by this Act declared to be a misdemeanor shall be punishable by fine or imprisonment, with or without hard labour; and the court before which such offence is tried may in England make the same allowances and order payment of the same costs and expenses as if such misdemeanor had been enumerated in the Act passed in the seventh year of his late Majesty King George the Fourth, chapter sixty-four, or any other Act that may be passed for the like purpose; and may in any other part of her Majesty's dominions make such allowances and order payment of such costs and expenses (if any) as are payable or allowable upon the trial of any misdemeanor under any existing Act or ordinance, or as may be payable or allowable under any Act or law for the time being in force therein:

7 Geo. 4. c. 64.

(2) Every offence declared by this Act to be a misdemeanor shall also be deemed to be an offence hereby made punishable by imprisonment for any period not exceeding six months, with or without hard labour, or by a penalty not exceeding one hundred pounds, and may be prosecuted accordingly in a summary manner instead of being prosecuted as a misdemeanor:

(3) Every offence hereby made punishable by imprisonment for any period not exceeding six months, with or without hard labour, or by any penalty not exceeding one hundred pounds, shall in England and Ireland be prosecuted summarily before any two or more justices, as to England in the manner directed by the Act of the eleventh and twelfth years of the reign of her Majesty Queen Victoria, chapter forty-three, and as to Ireland in the manner directed by the Act of the fourteenth and fifteenth years of the reign of her Majesty Queen Victoria, chapter ninety-three, or in such other manner as may be directed by any Act or Acts that may be passed for like purposes: And all provisions contained in the said Acts shall be applicable to such prosecutions, in the same manner as if the offences in respect of which the same are instituted were hereby stated to be offences in respect of which two or more justices have power to convict summarily or to make a summary order:

11 & 12 Vict. c. 43.

14 & 15 Vict. c. 93.

(4) In all cases of summary convictions in England, where the sum adjudged to be paid exceeds five pounds, or the period of imprisonment adjudged exceeds one month, any person who thinks himself aggrieved by such conviction may appeal to the next court of general or quarter sessions which is holden not less than twelve days after the day of such conviction for the county, city, borough,

Legal procedure (general)

liberty, riding, division, or place wherein the case has been tried: Provided, that such person shall give to the complainant a notice in writing of such appeal, and of the cause and matter thereof, within three days after such conviction, and seven clear days at the least before such sessions, and shall also either remain in custody until the sessions, or enter into a recognizance, with two sufficient sureties, before a justice of the peace, conditioned personally to appear at the said sessions, and to try such appeal, and to abide the judgment of the court thereupon, and to pay such costs as shall be by the court awarded; and upon such notice being given, and such recognizance being entered into, the justice before whom the same shall be entered into shall liberate such person, if in custody; and the court at such sessions shall hear and determine the matter of the appeal, and shall make such order therein, with or without costs to either party, as to the court shall seem meet; and in case of the dismissal of the appeal, or the affirmance of the conviction, shall order and adjudge the offender to be punished according to the conviction, and to pay such costs as may be awarded, and shall, if necessary, issue process for enforcing such judgment:

(5) All offences under this Act shall in any British possession be punishable in any court or by any justice of the peace or magistrate in which or by whom offences of a like character are ordinarily punishable, or in such other manner, or by such other courts, justices, or magistrates, as may from time to time be determined by any Act or ordinance duly made in such possession in such manner as Acts and ordinances in such possession are required to be made in order to have the force of law.

Stipendiary magistrate to have same power as two justices.

519. Any stipendiary magistrate shall have full power to do alone whatever two justices of the peace are by this Act authorized to do.

Offences where deemed to have been committed.

520. For the purpose of giving jurisdiction under this Act, every offence shall be deemed to have been committed, and every cause of complaint to have arisen, either in the place in which the same actually was committed or arose, or in any place in which the offender or person complained against may be.

Jurisdiction over ships lying off the coasts.

521. In all cases where any district within which any court or justice of the peace or other magistrate has jurisdiction either under this Act or under any other Act or at common law, for any purpose whatever, is situate on the coast of any sea, or abutting on or projecting into any bay, channel, lake,

Legal procedure (general).

river, or other navigable water, every such court, justice of the peace, or magistrate shall have jurisdiction over any ship or boat being on or lying or passing off such coast, or being in or near such bay, channel, lake, river, or navigable water as aforesaid, and over all persons on board such ship or boat, or for the time being belonging thereto, in the same manner as if such ship, boat, or persons were within the limits of the original jurisdiction of such court, justice, or magistrate.

Service to be good if made personally, or on board ship.

522. SERVICE of any summons or other matter in any legal proceeding under this Act shall be good service if made personally on the person to be served, or at his last place of abode, or if made by leaving such summons for him on board any ship to which he may belong, with the person being or appearing to be in command or charge of such ship.

Sums ordered to be paid leviable by distress on ship.

523. IN all cases where any court, justice or justices of the peace, or other magistrate, has or have power to make an order directing payment to be made of any seaman's wages, penalties, or other sums of money, then, if the party so directed to pay the same is the master or owner of a ship, and the same is not paid at the time and in manner prescribed in the order, the court, justice or justices, or other magistrate who made the order, may, in addition to any other powers they or he may have for the purpose of compelling payment, direct the amount remaining unpaid to be levied by distress or poinding and sale of the said ship, her tackle, furniture, and apparel.

Application of penalties.

524. ANY court, justice, or magistrate imposing any penalty under this Act, for which no specific application is herein provided, may, if it or he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any wrong or damage which he may have sustained by the act or default in respect of which such penalty is imposed, or to be applied in or towards payment of the expenses of the proceedings; and, subject to such directions or specific application as aforesaid, all penalties recovered in the United Kingdom shall be paid into the receipt of her Majesty's Exchequer in such manner as the Treasury may direct, and shall be carried to and form part of the Consolidated Fund of the United Kingdom; and all penalties recovered in any British possession shall be paid over into the public treasury of such possession, and form part of the public revenue thereof.

Limitation of time in summary proceedings.

525. THE time for instituting summary proceedings under this Act shall be limited as follows; (that is to say,)

(1) No conviction for any offence shall be made under this Act in any summary proceeding instituted in the United Kingdom, unless such proceeding is commenced within six months after the commission of the offence; or if both or either of the parties to such proceeding happen during such time to be out of the United Kingdom, unless

Legal procedure (general).

the same is commenced within two months after they both first happen to arrive or to be at one time within the same:

(2) No conviction for any offence shall be made under this Act in any proceeding instituted in any British possession, unless such proceeding is commenced within six months after the commission of the offence; or if both or either of the parties to the proceeding happen during such time not to be within the jurisdiction of any court capable of dealing with the case, unless the same is commenced within two months after they both first happen to arrive or to be at one time within such jurisdiction:

(3) No order for the payment of money shall be made under this Act in any summary proceeding instituted in the United Kingdom, unless such proceeding is commenced within six months after the cause of complaint arises; or if both or either of the parties happen during such time to be out of the United Kingdom, unless the same is commenced within six months after they both first happen to arrive or to be at one time within the same:

(4) No order for the payment of money shall be made under this Act in any summary proceeding instituted in any British possession, unless such proceeding is commenced within six months after the cause of complaint arises; or if both or either of the parties to the proceeding happen during such time not to be within the jurisdiction of any court capable of dealing with the case, unless the same is commenced within six months after they both first happen to arrive or be at one time within such jurisdiction:

And no provision contained in any other Act or Acts, ordinance or ordinances, for limiting the time within which summary proceedings may be instituted shall affect any summary proceeding under this Act.

Document proved without calling attesting witness.

526. Any document required by this Act to be executed in the presence of or to be attested by any witness or witnesses may be proved by the evidence of any person who is able to bear witness to the requisite facts, without calling the attesting witness or witnesses or any of them.

Power of judge of Court of Record or Admiralty to arrest foreign ship that has occasioned damage.

527. Whenever any injury has, in any part of the world, been caused to any property belonging to her Majesty or to any of her Majesty's subjects by any foreign ship, if at any time thereafter such ship is found in any port or river of the United Kingdom, or within three miles of the coast thereof, it shall be lawful for the judge of any Court of Record in the United Kingdom, or for the judge of the High Court of Admiralty, or in Scotland the Court of Session, or the sheriff of the county within whose jurisdiction such ship may be, upon its being shown to him by any person applying summarily that such

Legal procedure (general).

injury was probably caused by the misconduct or want of skill of the master or mariners of such ship, to issue an order, directed to any officer of Customs or other officer named by such judge, requiring him to detain such ship until such time as the owner, master, or consignee thereof has made satisfaction in respect of such injury, or has given security, to be approved by the judge, to abide the event of any action, suit, or other legal proceeding that may be instituted in respect of such injury, and to pay all costs and damages that may be awarded thereon; and any officer of Customs or other officer to whom such order is directed shall detain such ship accordingly.

Power in certain cases to detain ship before application made to judge.

528. In any case where it appears that before any application can be made under the foregoing section such foreign ship will have departed beyond the limits therein mentioned, it shall be lawful for any commissioned officer on full pay in the Military or Naval Service of her Majesty, or any British officer of Customs, or any British consular officer, to detain such ship until such time as will allow such application to be made and the result thereof to be communicated to him; and no such officer shall be liable for any costs or damages in respect of such detention, unless the same is proved to have been made without reasonable grounds.

Who to be defendant to suit in such cases.

529. In any action, suit, or other proceeding in relation to such injury, the person so giving security as aforesaid shall be made defendant or defender, and shall be stated to be the owner of the ship that has occasioned such damage; and the production of the order of the judge made in relation to such security shall be conclusive evidence of the liability of such defendant or defender to such action, suit, or other proceeding.

Legal Procedure (Scotland).

[Sections 530-543 are omitted as not relating to India.]

Part XI.

Miscellaneous.

Miscellaneous.

Contracts may be made with natives in India, under certain conditions, binding them to go to

544. It shall be lawful for any master or owner of a ship, or his agent, to enter into contracts with Lascars or natives of the territories of the East India Company, binding them to proceed to any port or ports in the Australian colonies either as seamen or as passengers, and there to engage themselves as seamen in any ship which may happen to be there, and to be

Miscellaneous.

bound to the United Kingdom, or to any other part of her Majesty's dominions: Provided, that every such contract shall be in such form, and shall contain such provisions, and shall be executed in such manner, and under such conditions for securing the return of such Lascars or natives to their own country, and for other purposes, as the Governor General of India in Council, or the Governors of the respective presidencies in which the contract is made, in Council, may direct; and if any Lascar or other person who has bound himself by any such contract is, on arriving in any of the said colonies, required to enter into an agreement to serve as a seaman in any ship bound for the United Kingdom, or to any other part of her Majesty's dominions, and if it is certified by some officer appointed for that purpose by the Governor of the said colony that such agreement is a proper agreement in all respects for such Lascar or other person to enter into, and is in accordance with the original contract, and that the ship to which such agreement relates is a proper ship for such Lascar or other person to serve in, and is properly supplied with provisions, and that there is not in the opinion of such officer any objection to the full performance of the said contract, such Lascar or other person shall be bound to enter into the said agreement, and to serve as a seaman in the ship to which it relates, and shall thereupon be deemed to be for all purposes one of the crew of the ship; and if he refuses to enter into such agreement, he shall, notwithstanding such refusal, be liable to the same consequences, and be dealt with in all respects in the same manner, as if he had voluntarily entered into the same; and for every Lascar or other person in respect of whom such certificate is applied for, the person applying for the same shall pay to such officer as aforesaid such fee as the Governor of the colony may appoint.

Australia, and thence to serve in other ships to the United Kingdom.

545. Nothing in this Act contained shall be taken to repeal or alter any of the provisions of the "Passengers Act, 1852," or of the Act of the seventeenth year of her present Majesty, chapter eighty-four.

Act not to affect Passenger Acts, 15 & 16 Vict. c. 44; 16 & 17 Vict. c. 84.

546. The municipal corporation of any borough being a seaport in the United Kingdom, and any body corporate, association, or trustees in any such seaport existing or constituted for any public purposes relating to the government or benefit of persons engaged in the British Merchant Service, or to the management of docks and harbours, or for any other public purposes connected with shipping or navigation, may, with the consent of her Majesty's Secretary of State for the Home Department, appropriate any lands vested in them or in trustees for them as a site or sites for a sailors' home or sailors' homes, and may for that purpose either retain and apply the same accordingly, or convey the same to trustees, with such powers for appointing new trustees and continuing the trust as they think fit.

Corporations, &c. may grant site for sailors' homes.

Miscellaneous

Power of colonial legislatures to alter provisions of Act.

547. THE legislative authority of any British possession shall have power, by any Act or ordinance, confirmed by her Majesty in Council, to repeal, wholly or in part, any provisions of this Act relating to ships registered in such possession; but no such Act or ordinance shall take effect until such approval has been proclaimed in such possession, or until such time thereafter as may be fixed by such Act or ordinance for the purpose.

Expenses incurred by Commissioners of Customs to be paid out of the consolidated Customs.

548. ALL expenses incurred by the Commissioners of Customs in the conduct of suits or prosecutions, or otherwise in carrying into effect the provisions of this Act, shall be considered as expenses having reference to the Revenue of Customs, and shall be paid out of the Consolidated Customs; but the Board of Trade may, with the consent of the Treasury, repay out of the Mercantile Marine Fund all or any part of such of the expenses so paid as are by the provisions of this Act chargeable on the said fund.

SCHEDULE to which this Act refers.

Form A. (See Section 36.)

Certificate of Surveyor.

Name of ship.	British or foreign built.	Port of registry.	How propelled.
			By steam or sails, and if by steam, whether by paddles or screw.

Number of decks .		Build . . .	*Carvel or clincher.*
Number of masts .		Gallery . . .	*Description of.*
Rigging . . .	*Nature of, and whether standing or running bowsprit.*	Head . . .	*Kind of.*
Stern . . .	*Round, square, or other description.*	Framework . .	*Wood or other material.*

Measurements.	Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost		
Main breadth to outside of plank		
Depth in hold from tonnage deck to ceiling at midships . . .		

Tonnage.	No. of tons.
Tonnage under tonnage deck	
Closed-in spaces above the tonnage deck, if any; viz.	
Space or spaces between decks	
Poop	
Roundhouse	
Other inclosed spaces, if any, naming them	
Total . .	

(*) *Additional particulars for Steamers.*	Tons.	
Deduction for space required for propelling power (say whether $\frac{37}{100}$ths or $\frac{50}{100}$ths, or as measured)		
Length of engine room (if measured)	Feet.	Tenths.
Engines	Number of engines.	
Combined power (estimated horse-power)	No. of horses-power.	

(*) *Omit this part if she has no steam power.*

Register tonnage, (after making deduction for space for propelling power in steamers) (*).	.

I, the undersigned *A B.*, . of , having surveyed the above-named ship, hereby certify that the above particulars are true.

(Signed)_____

Dated at ,
the day of , 18 .

Form B. (See Section 38.)

Declaration of Ownership by Individual Owner.

Name of ship.	British or foreign built.	Port of registry.	How propelled.
			By steam or sails, and if by steam, whether by paddle or screw.

Number of decks .		Build . . .	*Carvel or clincher.*
Number of masts .		Gallery . . .	*Description of.*
Rigging . . .	*Nature of, and whether standing or running bowsprit.*	Head . . .	*Kind of.*
Stern . . .	*Round, square, or other description.*	Framework . .	*Wood or other material.*

Measurements.	Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost		
Main breadth to outside of plank		
Depth in hold from tonnage deck to ceiling at midships		

Tonnage.	No. of tons.
Tonnage under tonnage deck	
Closed-in spaces above the tonnage deck, if any; viz.	
Space or spaces between decks	
Poop	
Roundhouse	
Other inclosed spaces, if any, naming them	
Total . .	

(*) *Additional particulars for Steamers.*	Tons.
Deduction for space required for propelling power (say whether $\frac{37}{100}$ths or $\frac{32}{100}$ths, or as measured)	
	Feet. Tenths.
Length of engine room (if measured)	
	Number of engines.
Engines	
	No. of horses-power.
Combined power (estimated horse-power)	
Register tonnage, (after making deduction for space for propelling power in steamers) (*)	

(*) *Omit this part if she has no steam power.*

I, the undersigned *A. B.*, of , in the county of , declare as follows:

(1) I am a natural-born British subject born at [*naming birth-place*],

and have never taken the oath of allegiance to any foreign state. } *or* { and have since I took the oath of allegiance to a foreign state [*naming state*], and on the day of , taken the oath of allegiance to her Majesty, and am resident* at [*naming place*], being a place within her Majesty's dominions.

or

I am

a denizen by letters of denization dated the day of , } [*or* { naturalized by Act of Parliament of the United Kingdom, of [*cite the year of the reign in which the Act was passed, its chapter and title*], } *or* { naturalized by an ordinance of the proper legislative authority of [*naming British possession*], [*cite the year in which the ordinance was passed, its chapter and title*], }

and am resident at [*naming place*], being a place within her Majesty's dominions.

And I have

since I so became a denizen, } *or* { since the passing of the said Act or ordinance,

and on the day of , taken the oath of allegiance to her Majesty.

(2) The ship, the description of which is prefixed to this my declaration,

was built at [*naming the country and place*], on the day of , and her foreign name is [*these words to be added if the ship is foreign.*] } *or* { is foreign-built, and I do not know the time when or the place where she was built, and her foreign name is } *or* { was condemned by the court of [*naming court*], on the day of , at .

(3) *C. D.*, of , is the master of the said ship.

(4) I am entitled to be registered as †owner of shares in the said ship.

(5) To the best of my knowledge and belief no person or body of persons, other than such persons or bodies of persons as are by the Merchant Shipping Act, 1854, qualified to be owners of British ships, is entitled as owner to any interest whatever, either legal or beneficial, in the said ship.

And I make this solemn declaration conscientiously believing the same to be true,

(Signed) _____

Dated at ,

the day of , 18 .

Made and subscribed by the above-named *A. B.*
in the presence of me,

(Signed) _____ [*name of registrar or justice of the peace acting in and for*]

* *If the declarant is a natural-born subject who has taken the oath of allegiance to a foreign state, or a denizen or naturalized subject, and is resident in a country not within her Majesty's dominions, he must declare, in addition, that "he is a "member of "some British "factory," or "partner in "some house "actually "carrying on "business in "the United "Kingdom, "or in some "British pos-"session" [naming the house, and also the place where it carries on its busin]*

† *If the declaration is made by a joint owner, add the word "joint" before owner.*

Form C. (See Section 39.)

Declaration of Ownership on behalf of a Body Corporate as Owner.

Name of ship.	British or foreign built.	Port of registry.	How propelled.
			By steam or sails, and if by steam, whether by paddle or screw.

Number of decks .		Build . . .	*Carvel or clincher.*
Number of masts .		Gallery . . .	*Description of.*
Rigging . . .	*Nature of, and whether standing or running bowsprit.*	Head . . .	*Kind of.*
Stern . . .	*Round, square, or other description.*	Framework . .	*Wood or other material.*

Measurements.	Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of head of the sternpost		
Main breadth to outside of plank		
Depth in hold from tonnage deck to ceiling at midships . . .		

Tonnage.	No. of tons.
Tonnage under tonnage deck	
Closed-in spaces above the tonnage deck, if any; viz.	
Space or spaces between decks	
Poop	
Roundhouse	
Other inclosed spaces, if any, naming them	
Total . .	

(*) *Additional particulars for Steamers.*	No. of Tons.
Deduction for space required for propelling power (say whether $\frac{37}{100}$ths or $\frac{33}{100}$ths, or as measured)	
	Feet. Tenths.
Length of engine room (if measured)	
	Number of engines.
Engines	
	No. of horses power.
Combined power (estimated horse-power)	

Register tonnage, (after making deduction for space for propelling power in steamers) (*)

(*) *Omit this part if she has no steam power.*

I, the undersigned *A. B.*, of , in the county of , [*Secretary*] *or* [*duly appointed Public Officer*] of the Company, declare as follows:

(1) The said company was incorporated by or by virtue of

an Act of Parliament of the United Kingdom, [*cite the year of the reign in which the Act was passed, its chapter and title*]. *or* a charter granted by her Majesty, and dated the day of , *or* an Act or ordinance of the legislature of , [*cite the year in which the Act or ordinance was passed, its chapter and title*]. *or* the Act 7 & 8 Vict. c. 110, from the day of , being the date of the certificate of complete registration.

(2) The said company is subject to the laws

of the United Kingdom, *or* of the British possession of ,

and has its principal place of business at .

(3) The ship, the description of which is prefixed to this my declaration,

was built at [*naming the country and place*], on the day of . , and her foreign name is . [*these words to be added if the ship is foreign.*] *or* is foreign-built, and I do not know the time when or the place where she was built, and her foreign name is *or* was condemned by the court of [*naming court*], on the day of , at .

(4) *C. D.*, of , is the master of the said ship.

(5) The said company is entitled to be registered as owner of shares in the said ship.

(6) To the best of my knowledge and belief no person or body of persons, other than such persons or bodies of persons as are by the Merchant Shipping Act, 1854, qualified to be owners of British ships, is entitled as owner to any interest whatever, either legal or beneficial, in the said ship.

And I make this solemn declaration conscientiously believing the same to be true.

(Signed)_____

Dated at ,

the day of , 18 .

Made and subscribed by the above-named *A. B.*
in the presence of me,

(Signed)_____ { [*Name of registrar*] }

Form D. (See Section 44.)

Certificate of Registry.

No — — — *Date of registry*

Name of ship.	British or foreign built.	Port of registry.	How propelled.
			By steam or sails, and if by steam, whether by paddle or screw.

Number of decks .		Build . . .	*Carvel or clincher.*
Number of masts .		Gallery . . .	*Description of.*
Rigging . . .	*Nature of, and whether standing or running bowsprit.*	Head . .	*Kind of.*
Stern . . .	*Round, square, or other description.*	Framework . .	*Wood or other material.*

Measurements.	Feet	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost		
Main breadth to outside of plank		
Depth in hold from tonnage deck to ceiling at midships . . .		

Tonnage.	No. of tons.
Tonnage under tonnage deck	
Closed-in spaces above the tonnage deck, if any; viz	
Space or spaces between decks	
Poop	
Roundhouse	
Other inclosed spaces, if any, naming them	
Total . .	

(*) *Additional particulars for Steamers*	Tons.
Deduction for space required for propelling power (say whether $\frac{37}{100}$ths or $\frac{33}{100}$ths, or as measured)	
	Feet. Tenths.
Length of engine room (if measured)	
	Number of engines
Engines	
	No. of horses power.
Combined power (estimated horse-power)	

(*) *Omit this part if she has no steam power.*

Register tonnage, (after making deduction for space for propelling power in steamers) (*)	

I, the undersigned *A. B.*, Registrar of the Port of , hereby certify, that,

(1.) The ship, the description of which is prefixed to this my certificate, has been duly surveyed, and that the above description is true.

(2.) *C. D.*, of , is the master of the said ship.

(3.) The said ship was built at [*naming the country and place*], on the day of , and her foreign name is [*these words to be added if the ship is foreign.*] *or* is foreign built, and the time when and the place where she was built is not known, and her foreign name is *or* was condemned by the court of [*naming court*], on the day of , at .

(4.) The several persons and bodies corporate whose names are hereunder written [*or endorsed*] are owners of the above ship, in the proportions set opposite their respective names.

(Signed)_____Registrar.

Names of the several owners above [*or* within] mentioned.	Number of sixty-fourth shares held by each owner.
[*Name.*]	*Thirty-two.*
____	*Sixteen.*
____	*Eight.*
____	*Eight.*

(Signed)_____Registrar.

Dated at _____,

the day of , 18 .

Notice.—A certificate of registry granted under the Merchant Shipping Act, 1854, is not a document of title. It does not necessarily contain notice of *all* changes of ownership, and in no case does it contain an official record of any mortgages affecting the ship.

Form E. (See Section 55.)

Bill of Sale.

*No.*_____ *Date of registry.*

Name of ship .	British or foreign built.	Port of registry.	How propelled.
			By steam or sails, and if by steam, whether by paddle or screw.

Number of decks .		Build . . .	*Carvel or clincher.*
Number of masts .		Gallery . . .	*Description of.*
Rigging . . .	*Nature of, and whether standing or running bowsprit.*	Head . . .	*Kind of.*
Stern . . .	*Round, square, or other description.*	Framework . .	*Wood or other material.*

Measurements.	Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost		
Main breadth to outside of plank		
Depth in hold from tonnage deck to ceiling at midships. . . .		

Tonnage.	No. of tons.
Tonnage under tonnage deck	
Closed-in spaces above the tonnage deck, if any; viz.	
Space or spaces between decks	
Poop	
Roundhouse	
Other inclosed spaces, if any, naming them	
Total . .	

(*) *Omit this part if she has no steam power.*

(*) *Additional particulars for Steamers.*	Tons.	
Deduction for space required for propelling power (say whether $\frac{27}{100}$ths or $\frac{33}{100}$ths, or as measured)		
Length of engine room (if measured)	Feet.	Tenths.
Engines	Number of engines.	
Combined power (estimated horse-power)	No. of horses-power.	

Register tonnage, (after making deduction for space for propelling power in steamers) (*)

I, *A. B.*, of , in the county of , being owner of shares in the ship above particularly described, in consideration of £ paid to me by *C. D.*, of , in the county of , hereby transfer to the said *C. D.* the said shares.

Alter as necessary, if there be more than one owner.

Further, I, *A. B.*, for myself and my heirs, covenant with the said *C. D.* and his assigns that I have power to transfer in manner aforesaid the said shares, and that the same are free from incumbrances* *save as appears by the registry of the said ship.*

In witness whereof I have hereunto subscribed my name and affixed my seal, this day of , 18 .

(L.S.) (Signed)_____

* *Omit, if no incumbrances, the words in italics.*

Executed by the above-named
in the presence of

_____ [*insert description and place of residence.*]

Form F. (See Section 56.)

Declaration of Ownership by Individual Transferree.

No _____ *Date of registry.*

Name of ship.	British or foreign built.	Port of registry.	How propelled.
			By steam or sails, and if by steam, whether by paddle or screw.

Number of decks .		Build . . .	*Carvel or clincher.*
Number of masts .		Gallery . . .	*Description of.*
Rigging . . .	*Nature of, and whether standing or running bowsprit.*	Head . . .	*Kind of.*
Stern . . .	*Round, square, or other description.*	Framework . .	*Wood or other material.*

Measurements.	Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost		
Main breadth to outside of plank		
Depth in hold from tonnage deck to ceiling at midships . . .		

Tonnage	No. of tons.
Tonnage under tonnage deck	
Closed-in spaces above the tonnage deck, if any; viz.	
Space or spaces between decks	
Poop	
Roundhouse	
Other inclosed spaces, if any, naming them	
Total .	

(*) Omit this part if she has no steam power.

(*) *Additional particulars for Steamers.*	Tons.	
Deduction for space required for propelling power (say whether $\frac{37}{100}$ths or $\frac{35}{100}$ths, or as measured)		
Length of engine room (if measured)	Feet.	Tenths.
Engines	Number of engines.	
Combined power (estimated horse-power)	No. of horses-power	

Register tonnage, (after making deduction for space for propelling power in steamers) (*)

I, the undersigned *A. B*, of , in the county of , declare as follows:

(1) I am a natural-born subject of her Majesty, born at [*naming place of birth*],

and have never taken the oath of allegiance to any foreign state. } *or* { and have since I took the oath of allegiance to a foreign state [*naming state*], and on the day of , taken the oath of allegiance to her Majesty, and am resident* at [*naming place*], being a place within her Majesty's dominions.

or

I am

a denizen by letters of denization dated the day of , } *or* { naturalized by Act of Parliament of the United Kingdom [*cite the year in which the Act was passed, its chapter and title*], } *or* { naturalized by an ordinance of the proper legislative authority of [*naming British possession*], [*cite the year in which the ordinance was passed, its chapter and title.*]

and am resident at [*naming place*], being a place within her Majesty's dominions.

And I have

since I so became a denizen, } *or* { since the passing of the said Act or ordinance,

and on the day of , taken the oath of allegiance to her Majesty.

(2) To the best of my knowledge and belief no person or body of persons, other than such persons or bodies of persons as are by the Merchant Shipping Act, 1854, qualified to be owners of British ships, is entitled as owner to any interest whatever, either legal or beneficial, in the said ship.

And I make this solemn declaration conscientiously believing the same to be true.

(Signed)_____

Dated at ,

the day of , 18 .

Made and subscribed by the above-named *A. B.*
in the presence of me,

(Signed)_____ { *Name of registrar or justice of the peace acting in and for* .

* *If the declarant is a natural-born subject who has taken the oath of allegiance to a foreign state, or a denizen or a naturalized subject, and is resident in a country not within her Majesty's dominions, he must declare, in addition, that "he is a "member of "some British "factory, "partner in "some house "actually carrying on "business in "the United "Kingdom, or "in some British possession" [naming the house, and also the place where it carries on its business].*

Form G. (See Section 56.)

Declaration of Ownership on behalf of a Body Corporate as Transferree.

*No.*_____ *Date of registry.*

Name of ship.	British or foreign built.	Port of registry.	How propelled.
			By steam or sails, and if by steam, whether by paddles or screw.

Number of decks .		Build . . .	*Carvel or clincher.*
Number of masts .		Gallery . . .	*Description of.*
Rigging . . .	*Nature of, and whether standing or running bowsprit.*	Head . . .	*Kind of.*
Stern . . .	*Round, square, or other description.*	Framework . .	*Wood or other material.*

Measurements.	Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost		
Main breadth to outside of plank		
Depth in hold from tonnage deck to ceiling at midships		

Tonnage.	No. of tons.
Tonnage under tonnage deck	
Closed-in spaces above the tonnage deck, if any; viz.	
Space or spaces between decks	
Poop	
Roundhouse	
Other inclosed spaces, if any, naming them	
Total . .	

(*) *Additional particulars for Steamers.*	Tons.	
Deduction for space required for propelling power (say whether $\frac{37}{100}$ ths or $\frac{33}{100}$ ths, or as measured)		
Length of engine room (if measured)	Feet.	Tenths.
Engines	Number of engines.	
Combined power (estimated horse-power)	No. of horses-power.	

(*) *Omit this part if she has no steam power.*

Register tonnage, (after making deduction for space for propelling power in steamers) (*)

I, the undersigned *A. B*, of , in the county of [*Secretary*] *or* [*duly appointed Public Officer*] of the Company, declare as follows:

(1) The said company was incorporated by or by virtue of

an Act of Parliament of the United Kingdom, [*cite the year in which the Act was passed, its chapter and title*]. *or* a charter granted by her Majesty, and dated the day of . *or* an Act or ordinance of the legislature of , [*cite year in which the Act or ordinance was passed, its chapter and title*]. *or* the Act 7 & 8 Vict c. 110., from the day of , being the date of the certificate of complete registration.

(2) The said company is subject to the laws of the United Kingdom, *or* of the British possession of _____, and has its principal place of business at

(3) The said company is entitled to be registered as transferee of shares in the said ship.

And I make this solemn declaration conscientiously believing the same to be true.

(Signed) _____

Dated at _____,
the day of , 18 .

Made and subscribed by the above-named *A B.*
in the presence of me,

(Signed) _____ [*Name of registrar*]

Form H. (See Section 58.)

Declaration by Owner taking by Transmission.

No. — *Date of registry.*

Name of ship.	British or foreign built.	Port of registry.	How propelled.
			By steam or sails, and if by steam, whether by paddle or screw.

Number of decks .		Build . . .	*Carvel or clincher*
Number of masts .		Gallery . . .	*Description of.*
Rigging . . .	*Nature of, and whether standing or running bowsprit.*	Head . . .	*Kind of.*
		Framework . .	*Wood or other material.*
Stern . . .	*Round, square, or other description.*		

Measurements.	Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost		
Main breadth to outside of plank		
Depth in hold from tonnage deck to ceiling at midships. . . .		

Tonnage.	No. of tons.
Tonnage under tonnage deck	
Closed-in spaces above the tonnage deck, if any; viz.	
Space or spaces between decks	
Poop	
Roundhouse	
Other inclosed spaces, if any, naming them	
Total . .	

(*) *Additional particulars for Steamers*	Tons.	
Deduction for space required for propelling power (say whether $\frac{37}{100}$ths or $\frac{33}{100}$ths, or as measured)		
Length of engine room (if measured)	Feet.	Tenths.
Engines	Number of engines.	
Combined power (estimated horse-power)	No of horses-power.	

(*) *Omit this part if she has no steam power*

Register tonnage, (after making deduction for space for propelling power in steamers (*)	

I, (*) the undersigned *A. B.*, of , in the county of , declare as follows:

(1) I am a natural-born subject of her Majesty, born at [*naming place of birth*],

and have never taken the oath of allegiance to any foreign state. } *or* { and have since I took the oath of allegiance to a foreign state [*naming state*], and on the day of , taken the oath of allegiance to her Majesty, and am resident* at [*naming place*], being a place within her Majesty's dominions.

or

I am

a denizen by letters of denization dated the day of , } *or* { naturalized by Act of Parliament of the United Kingdom, [*cite the year in which the Act was passed, its chapter and title*], } *or* { naturalized by an ordinance of the proper legislative authority of [*naming British possession,*] [*cite the year in which the ordinance was passed, its chapter and title*],

and am resident at [*naming place*], being a place within her Majesty's dominions.

And I have

since I so became a denizen, } *or* { since the passing of the said Act or ordinance, and on the day of , taken the oath of allegiance to her Majesty.

(2) I declare that the person appearing by the register book to be the owner of shares in the ship above described† [*died at , in the county of , having first duly made his will, dated the day of , whereby he appointed me executor, and I proved his said will on the day of in the court of*]or [*died at , in the county of , on the day of , intestate, and that letters of administration of his estate and effects were on the day of duly granted to me by the Court of* .] } *or* { We declare that *C. D.*, the person appearing on the register book to be the owner of shares in the ship above described, was on the day of † [*duly adjudged a bankrupt*] or [*declared insolvent*], and that we were on the day of appointed assignees of the said *C. D.*, and we are by law entitled to be registered as owners of the said shares of the said ship in place of the said *C. D.* } *or* { I declare that on the day of I intermarried with and am now the husband of *C. D.*, the person appearing on the register book to be the owner of shares in the said ship, and I declare that on such marriage the interest of the said *C. D.* became by law vested in me, and that I am entitled to be registered as owner of the said shares in place of the said *C. D.*

(3) To the best of my knowledge and belief no person or body of persons, other than such persons or bodies of persons as are by the Merchant Shipping Act, 1854, qualified to be owners of British ships, is entitled as owner to any interest whatever, either legal or beneficial, in the said ship.

And I make this solemn declaration conscientiously believing the same to be true.

(Signed) ——————————

Dated at ,
the day of , 18 .

Made and subscribed by the above-named *A. B.*
in the presence of me

(Signed) —————————— { *Name of registrar or justice of the peace acting in and for*

(*) *Alter accordingly, if more than one person makes the declaration.*

* *If the declarant is a natural-born subject who has taken the oath of allegiance to a foreign state, or a denizen or a naturalized subject, and is resident in a country not within her Majesty's dominions, he must declare, in addition, that "he is a "member of "some British "factory, partner in some "house actually carrying "on business "in the United "Kingdom, "or in some "British possession" [naming the house, and also the place where it carries on its business].*

† *Alter according to circumstances.*

Form I. (See Section 66.)

Form of Mortgage.

No.——————— *Date of registry.*

Name of ship.	British or foreign built.	Port of registry.	How propelled.
			By steam or sails, and if by steam, whether by paddle or screw.

Number of decks .		Build . . .	*Carvel or clincher.*
Number of masts .		Gallery . . .	*Description of.*
Rigging . . .	*Nature of, and whether standing or running bowsprit.*	Head . . .	*Kind of.*
Stern . . .	*Round, square, or other description.*	Framework . .	*Wood or other material.*

Measurements.	Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost		
Main breadth to outside of plank		
Depth in hold from tonnage deck to ceiling at midships . . .		

Tonnage.	No. of tons.
Tonnage under tonnage deck	
Closed-in spaces above the tonnage deck, if any; viz.	
Space or spaces between decks	
Poop	
Roundhouse	
Other inclosed spaces, if any, naming them	
Total . .	

(*) Omit this part if she has no steam power.

(*) *Additional particulars for Steamers.*	Tons.	
Deduction for space required for propelling power (say whether $\frac{21}{100}$ths or $\frac{22}{100}$ths, or as measured)		
Length of engine room (if measured)	Feet.	Tenths.
Engines	Number of engines.	
Combined power (estimated horse-power)	No. of horses-power.	

Register tonnage, after making deduction for space for propelling power in steamers (*)	

I, the undersigned, *A. B.*, of , in the county of , in consideration of £ this day lent to me by *C. D.*, of , in the county of , do hereby for myself and my heirs covenant with the said *C.D.*, firstly, that I, or my heirs, executors, or administrators, will pay to the said *C. D.* the said sum of £ , together with interest thereon at the rate of £ by the £100 in the year, on the day of next; and, secondly, that if the said principal sum is not paid on the said day, I, or my heirs, executors, or administrators, will, during such time as the same or any part thereof remain unpaid, pay to the said *C. D.* interest on the whole or such part thereof as may for the time being remain unpaid at the rate of £ by the £100 in the year, by equal half-yearly payments, on the day of , and day of , in every year; and for better securing to the said *C. D.* the repayment in manner aforesaid of the said principal sum and interest, I hereby mortgage to the said *C. D.* shares of which I am the owner in the ship above particularly described.

Alter covenant as may be necessary, so as to secure a general balance of accounts, or otherwise as the case may require.

Lastly, I, *A. B.*, for myself and my heirs, covenant with the said *C. D.* and his assigns, that I have power to mortgage in manner aforesaid the above-mentioned shares, and that the same are free from incumbrances* *save as appears by the registry of the said ship.*

In witness whereof I have hereto subscribed my name and affixed my seal, this day of

(*) *Omit, if no incumbrances, the words in italics.*

(L.S.) (Signed)

Executed by the above-named *A. B.*
in the presence of *X. Y.*

Form K. (See Section 73.)

Transfer of Mortgage to be endorsed on Original Mortgage.

I, the within mentioned *C. D.*, in consideration of £ this day paid to me by *X. Y.*, of , in the county of , hereby transfer to him the benefit of the within written security. In witness whereof I have hereunto subscribed my name and affixed my seal, this the day of

(L.S.) (Signed)

Executed by the above-named *C. D.*
in the presence of *E. F.*

Form L. (See Section 74.)

Declaration by Mortgagee taking by Transmission.

*No.*_____ *Date of registry.*

Name of ship.	British or foreign built.	Port of registry.	How propelled.
			By steam or sails, and if by steam, whether by paddles or screw.

Number of decks .		Build . . .	*Carvel or clincher.*
Number of masts .		Gallery . . .	*Description of.*
Rigging . . .	*Nature of, and whether standing or running bowsprit.*	Head . . .	*Kind of.*
Stern . . .	*Round, square, or other description.*	Framework . .	*Wood or other material.*

Measurements.	Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost		
Main breadth to outside of plank		
Depth in hold from tonnage deck to ceiling at midships . . .		

Tonnage.	No. of tons.
Tonnage under tonnage-deck	
Closed-in spaces above the tonnage deck, if any; viz.	
Space or spaces between decks	
Poop	
Roundhouse	
Other inclosed spaces, if any, naming them	
Total . .	

(*) *Omit this part if she has no steam power.*

(*) *Additional particulars for Steamers.*	Tons.
Deduction for space required for propelling power (say whether $\frac{37}{100}$ths or $\frac{33}{100}$ths, or as measured)	
Length of engine room (if measured)	Feet. Tenths.
Engines.	Number of engines.
Combined power (estimated house-power)	No. of horses-power.

Register tonnage, (after making deduction for space for propelling power in steamers) (*)

I, the undersigned *A. B.*, of in the county of , declare as follows:

I declare that the person appearing by the register book to be the mortgagee of shares in the ship above described* [*died at , in the county of , having first duly made his will, dated the day of , whereby he appointed me executor, and I proved his said will on the day of , in the Court of*] or [*died at , in the county of , on the day of , intestate, and that letters of administration of his estate and effects were on the day of duly granted to me by the Court of .*].

or

We declare that *C. D.*, the person appearing on the register book to be the mortgagee of shares in the ship above described,* *was on the day of duly adjudged a bankrupt*] or [*was duly declared insolvent*], and that we were on the day of appointed assignees of the said *C. D.*, and we are by law entitled to be registered as mortgagees of the said shares of the said ship in place of the said *C. D.*

or

I declare that on the day of I intermarried with and am now the husband of *C. D.*, the person appearing on the register book to be the mortgagee of shares in the said ship, and I declare that on such marriage the interest of the said *C. D.* became by law vested in me, and that I am entitled to be registered as mortgagee of the said shares in place of the said *C. D.*

* *Alter according to circumstances.*

And I make this solemn declaration conscientiously believing the same to be true.

(Signed)_____

Made and subscribed by the above-named *A. B.*
in the presence of me,

(Signed)_____ *Registrar or justice of the peace.*

Form M. (See Section 79.)

Certificate of Mortgage.

No.———— *Date of registry.*

Name of ship.	British or foreign built.	Port of registry.	How propelled.
			By steam or sails, and if by steam, whether by paddles or screw.

Number of decks .		Build . . .	*Carvel or clincher.*
Number of masts .		Gallery . . .	*Description of.*
Rigging . . .	*Nature of, and whether standing or running bowsprit.*	Head . . .	*Kind of.*
Stern . . .	*Round, square, or other description.*	Framework . .	*Wood or other material.*

Measurements.	Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost		
Main breadth to outside of plank		
Depth in hold from tonnage deck to ceiling at midships . . .		

Tonnage.	No. of tons.
Tonnage under tonnage deck	
Closed-in spaces above the tonnage deck, if any; viz.	
Space or spaces between decks	
Poop	
Roundhouse	
Other inclosed spaces, if any, naming them	
Total . .	

(*) *Additional particulars for Steamers.*	Tons.
Deduction for space required for propelling power, (say whether $\frac{37}{100}$ths or $\frac{33}{100}$ths, or as measured)	
	Feet. Tenths.
Length of engine room (if measured)	
	No. of engines.
Engines	
	No. of horses-power.
Combined power (estimated horses-power)	

(*) *Omit this part if she has no steam power.*

Register tonnage, (after making deduction for space for propelling power in steamers) (*)	

Account of Title of Subscribing Owners.		
Names of the several subscribing owners.	Number of sixty-fourth shares held by each of the subscribing owners.	Account of mortgages or certificates of mortgage or sale granted in respect of shares of subscribing owners.
(*Name and description of owner.*)		

(1.) We, the several above-mentioned persons, whose names are hereunto subscribed, being owners of the above ship in the proportion set opposite our respective names in the above account of title, (*but subject to the several mortgages above mentioned,*) hereby appoint *A. B.*, of , and *C. D.*, of , and each of them, our attornies and attorney, jointly or severally in our names and on our behalf to mortgage our shares in the above ship, and to execute and do all such deeds, matters, and things as may be necessary for carrying into effect the power hereby given.

Alter accordingly, if there is only one appointor or one attorney.

(2.) We declare that the amount of money to be raised by mortgage under this power shall not exceed £ , and that the rate of interest at which the same is raised shall not exceed £ for every £100 by the year.

(3.) We declare that the power of mortgaging hereby given may be exercised at .

(4.) We declare that the above power shall not be exercised after the expiration of months from the date hereof.

In witness whereof we have hereunto subscribed our names and affixed our seals, this day of

(L.S.) *E. F.*, of
(L.S.) *G. H.*, of
&c.

I, *M. N.*, Registrar of , hereby certify, that the above-written particulars relating to the ship _____, and to the title of the several above-mentioned owners, are correct; and I further certify, that the said owners have executed this certificate in manner above appearing.

Signed _____, Registrar.

N B.—Mortgages created under this power must be endorsed on the certificate in the following form, or as near thereto as circumstances permit :—

The day of

*The within mentioned shares in the ship _____ were this day mortgaged to X. Y., of _____, to secure * £ _____ and interest.*

Signed _____ } *Registrar or consular officer.*

** If the mortgage is to cover advances, insert "a sum "not "exceeding £," or "general "balance of "account," as case may be.*

Form N. (See Section 79.)

Certificate of Sale.

N B—All the owners of the ship must be parties to this document.

*No.*_____ *Date of registry.*

Name of ship.	British or foreign built.	Port of registry.	How propelled.
			By steam or sails, and if by steam, whether by paddles or screw.

Number of decks .		Build . . .	*Carvel or clincher.*
Number of masts .		Gallery . . .	*Description of.*
Rigging	*Nature of, and whether standing or running bowsprit.*	Head . . .	*Kind of.*
Stern . . .	*Round, square, or other description.*	Framework . .	*Wood or other material.*

Measurements.	Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost		
Main breadth to outside of plank		
Depth in hold from tonnage deck to ceiling at midships . . .		

Tonnage.	No. of tons.
Tonnage under tonnage deck	
Closed-in spaces above the tonnage deck, if any ; viz.	
Space or spaces between decks	
Poop	
Roundhouse	
Other inclosed spaces, if any, naming them	
Total . .	

(*) *Omit this part if she has no steam power.*

(*) *Additional particulars for Steamers.*	Tons.	
Deduction for space required for propelling power, (say whether $\frac{37}{100}$ths or $\frac{33}{100}$ths, or as measured)		
Length of engine room (if measured)	Feet.	Tenths.
Engines	Number of engines.	
Combined power (estimated horse-power)	No. of horses-power.	

Register tonnage, (after making deduction for space for propelling power in steamers) (*)

Account of Title to the above-mentioned Ship.		
Names of the owners of the ship above-mentioned.	Number of sixty-fourth shares held by each owner.	Account of mortgages or certificates of mortgage or sale granted in respect of ship.
(*Name.*)		

(1.) We, the several above-mentioned persons, whose names are hereunto subscribed, being owners of the above ship in the proportions set opposite our respective names in the above-mentioned account of title, (*but subject to the several mortgages above-mentioned,*) hereby appoint *A. B.*, of , and *C. D*, of and each of them, our attornies and attorney, jointly or severally in our names and on our behalf to sell the above ship, and to execute and do all such deeds, matters, and things as may be necessary for carrying into effect the power hereby given.

Alter accordingly, if only one appointor or one attorney.

(2.) We declare that the ship shall not be sold for a less sum than £

(3.) We declare that the ship may be sold at

(4.) We declare that the above power shall not be exercised after the expiration of months from the date hereof.

In witness whereof we have hereunto subscribed our names and affixed our seals this day of

(L.S.) *E. F.*, of
(L.S.) *G. H*, of
&c.

I, *M N.*, Registrar of , hereby certify, that the above-written particulars relating to the ship , and to the title of the several above-mentioned owners, are correct; and I further certify that the said owners have executed this certificate in manner above appearing.

Signed _____, Registrar.

Form O. (See Section 83.)

Form of Revocation.

No ——————— *Date of registry.*

Name of ship.	British or foreign built.	Port of registry.	How propelled.
			By steam or sails, and if by steam, whether by paddles or screw.

Number of decks .		Build . . .	*Carvel or clincher.*
Number of masts .		Gallery . . .	*Description of.*
Rigging . . .	*Nature of, and whether standing or running bowsprit.*	Head . . .	*Kind of.*
Stern . . .	*Round, square, or other description.*	Framework . .	*Wood or other material.*

Measurements.	Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost		
Main breadth to outside of plank		
Depth in hold from tonnage deck to ceiling at midships . . .		

Tonnage.	No. of tons.
Tonnage under tonnage deck	
Closed-in spaces above the tonnage deck, if any; viz.	
Space or spaces between decks	
Poop	
Roundhouse	
Other inclosed spaces, if any, naming them	
Total . .	

(*) *Additional particulars for Steamers.*	Tons.	
Deduction for space required for propelling power (say whether $\frac{37}{100}$ths or $\frac{33}{100}$ths, or as measured)		
Length of engine-room (if measured)	Feet.	Tenths.
Engines	Number of engines.	
Combined power (estimated horses-power)	No. of horses-power.	

(*) *Omit this part if she has no steam power.*

Register tonnage, (after making deduction for space for propelling power in steamers) (*)

We, , [a] *owners* of the ship above described, hereby revoke the power of mortgaging (*or* selling) the said ship given *by us* to [b] by a certificate of mortgage (*or* sale) dated the day of

In witness whereof we have hereunto subscribed our names and affixed our seals, this day of

(L.S.) *E. F.*, of

(L.S.) *G. H.*, of

&c.

I, *M N.*, Registrar of , hereby certify, that the said *owners* have executed this power of revocation in manner above appearing.

(Signed)——————————, Registrar.

(a) *Alter according to circumstances the words printed in italics.*
(b) *Insert names of attornies.*

Table P. (See Section 125.)

Fees to be charged for Matters transacted at Shipping Offices.

1. Engagement of Crews.

	£	s.	d.
In ships under 60 tons	0	4	0
60 to 100 „	0	7	0
100 to 200 „	0	15	0
200 to 300 „	1	0	0
300 to 400 „	1	5	0
400 to 500 „	1	10	0
500 to 600 „	1	15	0
600 to 700 „	2	0	0
700 to 800 „	2	5	0
800 to 900 „	2	10	0
900 to 1,000 „	2	15	0
Above 1,000 „	3	0	0

And so on for ships of larger tonnage, adding, for every 100 tons above 1,000, five shillings.

2. Engagement of Seamen separately. Two shillings for each.

3. Discharge of Crews.

	£	s.	d.
In ships under 60 tons	0	4	0
60 to 100 „	0	7	0
100 to 200 „	0	15	0
200 to 300 „	1	0	0
300 to 400 „	1	5	0
400 to 500 „	1	10	0
500 to 600 „	1	15	0
600 to 700 „	2	0	0
700 to 800 „	2	5	0
800 to 900 „	2	10	0
900 to 1,000 „	2	15	0
Above 1,000 „	3	0	0

And so on for ships of larger tonnage, adding, for every 100 tons above 1,000, five shillings.

4. Discharge of Seamen separately. Two shillings for each.

Table Q. (See Section 126.)

Sums to be deducted from Wages by way of partial Repayment of Fees in Table P.

1. In respect of Engagements and Discharges of Crews, upon each Engagement and each Discharge.

	s.	d.
From wages of any mate, purser, engineer, surgeon, carpenter, or steward	1	6
„ all others, except apprentices	1	0

2. In respect of Engagements and Discharges of Seamen separately, upon each Engagement and each Discharge.

One shilling.

Table R. (See Section 133.)

Fees to be charged on Examinations.

	£.	s.	d.
For a certificate as master	2	0	0
For a certificate as mate	1	0	0

Table S. (See Section 292.)

Number and Dimensions of Boats with which Sea going Ships are to be provided.

Registered tonnage.		Column 1. To be carried by sailing ships and steam ships.								Column 2. To be carried by sailing ships, and by steam ships when they do not carry the boats in col. 3.				Column 3. To be carried by steam ships which do not carry the boat in col. 2.								Total number of boats.	
		Boats.				Boats.				Launches.				Boats.				Life boats.					
Sailing ships.	Steam ships.	Number.	Length.	Breadth.	Depth.	Number.	Length.	Breadth.	Depth.	Number.	Length.	Breadth.	Depth.	Number.	Length.	Breadth.	Depth.	Number.	Length.	Breadth.	Depth.	Sailing ships.	Steam ships.
Tons.	Tons.		Ft.	Ft. In.	Ft. In		Ft.	Ft. In.	Ft. In		Ft.	Ft. In.	Ft. In		Ft.	Ft. In.	Ft. In.		Ft.	Ft. In.	Ft. In.		
	1,000 and upwards	1	18	5 6	2 3	2	24	5 6	2 6	1	27	8 6	3 8	2	22	5 6	2 6	2	28	8 6	3 6	...	7
...	800 to 1,000 . .	1	18	5 6	2 3	2	26	6 6	2 8	1	26	8 0	3 8	2	22	5 6	2 6	..	...	...	...	..	4 or 5
800 and upwards .	500 to 800 . .	1	18	5 6	2 3	2	24	5 6	2 6	1	26	8 0	3 8	2	22	5 6	2 6	.	...	...	...	4	4 or 5
600 to 800 . .	360 to 500 . .	1	16	5 6	2 3	2	24	5 6	2 6	1	25	7 0	3 6	2	22	5 6	2 6	...	..	...	...	4	4 or 5
400 to 600 . .	240 to 360 . .	1	16	5 6	2 3	1	22	5 6	2 5	1	22	6 6	3 3	2	22	5 6	2 6	..	...	...	...	3	3 or 4
200 to 400 . .	120 to 240 . .	1	14	5 0	2 2	.	...	..	...	1	20	6 0	3 0	2	22	5 6	2 6		...	...	...	2	2 or 3
100 to 200 . .	60 to 120 . .	1	14	5 0	2 2	..	...	...	...	1	16	5 6	2 9	2	18	5 6	2 4	...	...	...	...	2	2 or 3
Under 100 . .	Under 60 . .	1	14	5 0	2 2	..	...	...	...	..	...	...	...	..	...	...	...	.	...	...	...	1	1

as the case may be.

Note.—In sailing ships carrying the number of boats above specified, and steam ships carrying the larger of the two numbers above specified, the boats are to be considered sufficient, if their aggregate cubic contents are equal to the aggregate cubic contents of the boats specified.

In steam ships carrying the smaller of the two numbers above specified, one of the boats must be a launch of the capacity specified in col. 2.

In sailing ships of 200 tons burden and under, not carrying passengers, a dingy may be substituted for the boat in col. 1.

In sailing ships of 150 tons burden and under, not carrying passengers, a substantial boat of capacity sufficient to carry the crew may be substituted for those above specified.

In all steam ships, two paddlebox boats may be substituted for any two of the boats in col. 3.

Table T. (See Section 314.)

Fees to be charged for the Survey of Passenger Steamers.

	£	s.	d.
For steamers not exceeding 100 tons	2	0	0
For steamers exceeding 100 and not exceeding 300 tons	3	0	0
For steamers exceeding 300 and not exceeding 600 tons	4	0	0
And for every additional 300 tons an additional	1	0	0

TABLE U—omitted, as the section (333) to which it refers applies only to England.

TABLE V. (See Section 455.)
FEES and Remuneration of Receivers.

	£	s.	d.
For every examination on oath instituted by a receiver with respect to any ship or boat which may be or may have been in distress, a fee not exceeding	1	0	0
But so that in no case shall a larger fee than two pounds be charged for examinations taken in respect of the same ship and the same occurrence, whatever may be the number of the deponents.			
For every report required to be sent by the receiver to the Secretary of the Committee for managing the Affairs of Lloyd's in London, the sum of	0	10	0
For wreck taken by the receiver into his custody, a percentage of five per cent. upon the value thereof,			
But so that in no case shall the whole amount of percentage so payable exceed twenty pounds.			
In cases where any services are rendered by a receiver in respect of any ship or boat in distress, not being wreck, or in respect of the cargo or other articles belonging thereto, the following fees instead of a percentage; that is to say,			
If such ship or boat with her cargo equals or exceeds in value six hundred pounds, the sum of two pounds for the first, and the sum of one pound for every subsequent day during which the receiver is employed on such service; but if such ship or boat with her cargo is less in value than six hundred pounds, one moiety of the above-mentioned sum.			

TABLE W. (See Section 486.)
SALVAGE BOND.

[*N.B.—Any of the particulars not known, or not required, by reason of the claim being only against the cargo, &c., may be omitted.*]

WHEREAS certain salvage services are alleged to have been rendered by the ship [*insert names of ship and of commander*], commander, to the merchant ship [*insert names of ship and master*], master, belonging to [*name and place of business or residence of owner of ship*], freighted by [*the same of the freighter*], and to the cargo therein, consisting of [*state very shortly the descriptions and quantities of the goods, and the names and addresses of their owners and consignees*]:

And whereas the said ship and cargo have been brought into the Port of [*insert name and situation of port*], and a statement of the salvage claim has been sent to [*insert the name of the consular officer or Vice-Admiralty Judge, and of the office he fills*], and he has fixed the amount to be inserted in this bond at the sum of [*state the sum*]:

Now I, the said [*master's name*], do hereby, in pursuance of the Merchant Shipping Act, 1854, bind the several owners for the time being of the said ship, and of the cargo therein, and of the freight payable in respect of such cargo, and their respective heirs, executors, and administrators, to pay among them such sum, not exceeding the said sum of [*state the sum fixed*], in such proportions, and to such persons, as [*if the parties agree on any other court,*

substitute the name of it here,] the High Court of Admiralty in England shall adjudge to be payable as salvage for the services so alleged to have been rendered as aforesaid.

In witness whereof I have hereunto set my hand and seal, this [*insert the date*] day of .

Signed, sealed, and delivered by the said [*master's name*]

(L.S.)

In the presence of [*name of consular officer, or Vice-Admiralty Judge, and of the office he fills*]

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17 & 18 VICTORIA. A. D. 1854.

CHAPTER CXX.

An Act to repeal certain Acts and Parts of Acts relating to Merchant Shipping, and to continue certain Provisions in the said Acts.

[*11th August 1854.*]

WHEREAS by "The Merchant Shipping Act, 1854," the Acts relating to merchant shipping are amended and consolidated, and it is expedient to repeal certain Acts and parts of Acts relating to merchant shipping, and to make temporary provisions with respect to certain of the matters referred to in the said Acts: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

* * * * * * * * *

Penalty on masters of ships leaving certain seamen in distress in this country.

16. IF a native of any country in Asia, Africa, or of any of the islands in the South Sea or the Pacific Ocean, or of any other country not having any consul in the United Kingdom, is brought to the United Kingdom in any ship, British or foreign, as a seaman, and is left in the United Kingdom, and within six months of his being so left becomes chargeable upon the poor rate, or commits any act by reason of the committal whereof he is liable to be convicted as an idle and disorderly person, or any other act of vagrancy, the master or owner of the said ship, or in case of a foreign ship the person who is consignee of the ship at the time of the seaman being so left as aforesaid, shall incur a penalty not exceeding thirty pounds, unless he can show that the person so left as aforesaid quitted the ship without the consent of the master, or that due means have been afforded by such master, owner, or consignee, or one of them, to such person, of returning to his native country, or to the country in which he was shipped; and the court inflicting such penalty may order the whole or any part of such penalty to be applied towards the relief or sending home of such person.

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18 VICTORIA. A. D. 1855.

Chapter IV.

An Act to amend the Act for limiting the Time of Service in the Army.

[*27th February 1855.*]

Whereas by an Act passed in the session holden in the tenth and eleventh years of her Majesty, chapter thirty-seven, "for limiting the time of service in the Army," it was enacted, that no person should be enlisted to serve her Majesty, or in the forces of the *East India* Company, as a soldier, for a longer term than ten years in the infantry or twelve years in the cavalry or artillery, or other ordnance corps, to be reckoned from the day on which the recruit should have been attested, if he should have stated himself to be then of the age of eighteen years, or if not, then from the day on which he would complete the age of eighteen years, to be reckoned according to the age stated in his attestation: And it was thereby also enacted, that any soldier at any time during the last six months of the term of limited service for which he should have been first engaged, or after the completion of such term, might, if approved by his commanding officer or other competent military authority as a fit person to continue in her Majesty's service or in the service of the *East India* Company as a soldier, be re-engaged to serve for the further term of eleven years in the infantry and twelve years in the cavalry or artillery, or other ordnance corps; and that any soldier who should be ordered on foreign service, and who was within three years of the expiration of his first engagement, should be at liberty, with the approbation of his commanding officer, to re-engage before he embarked for such foreign service for such period as should complete a total service of twenty-one years in the infantry or twenty-four years in the cavalry or artillery: And whereas by an Act passed in the session holden in the twelfth and thirteenth years of her Majesty, chapter seventy-three, "to limit the enlistment in the artillery and other ordnance corps," it was enacted, that during the last six months of the term of limited service for which a soldier should have first engaged to serve in the artillery or other ordnance corps, or after the completion of such term, he might, if approved by his commanding officer or other competent military authority as a fit person to continue in her Majesty's service as a soldier, be re-engaged to serve for the further term of nine years: And whereas by reason of directions contained in schedules to the said first-recited Act, for filling up blanks in the forms of questions to be put to recruits on enlisting, it is apprehended that it may not be lawful to enlist persons to serve as soldiers for lesser terms than the said terms of ten years and twelve years respectively: And whereas it is expedient that her Majesty should be enabled to permit enlistment for such lesser terms, and to authorize soldiers to

10 & 11 Vict. c. 37.

12 & 13 Vict. c. 73.

re-engage for any terms within the limits of service prescribed by the said Acts: Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

Power to her Majesty, by order in Council, for three years after passing of Act, to lessen terms for enlistment and re-engagement of soldiers.

1. For three years after the passing of this Act any person may be enlisted to serve her Majesty, or in the forces of the *East India* Company, as a soldier, for any such term, not exceeding ten years in the infantry or twelve years in the cavalry or artillery, or other ordnance corps (to be reckoned as provided in the said first-mentioned Act), as may be authorized by any order or orders of her Majesty in Council in this behalf; and any soldier may, subject to such approbation as in the said Acts mentioned, re-engage for such term as may by such order or orders in Council be authorized; Provided the term for which he is so engaged, with the term of his service under his first enlistment, do not exceed the period of twenty-one years in the infantry or artillery, or other ordnance corps, or twenty-four years in the cavalry; and the forms of questions on enlistment in schedule A. to the said first-mentioned Act, and the form of declaration in schedule B. to such Act, may, when the occasion requires, be filled up with such term or number of years as may be authorized by such order or orders, instead of the term or number of years mentioned in the directions contained in such schedules.

Recited Acts and this Act to be read as one.

2. The said Acts of the tenth and eleventh years and twelfth and thirteenth years of her Majesty and this Act shall be read and construed together as one Act.

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18 & 19 VICTORIA. A. D. 1855.

Chapter XCI.

An Act to facilitate the Erection and Maintenance of Colonial Lighthouses, and otherwise to amend the Merchant Shipping Act, 1851.

[*14th August 1855.*]

Whereas it is expedient to make provision for facilitating the erection and maintenance of lighthouses in the British possessions abroad, and otherwise to amend the Merchant Shipping Act, 1854: Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by authority of the same, as follows:

Legal procedure.

* * * * * * * * *

Part X. of Merchant Shipping Act, 1854.

21. If any person, being a British subject, charged with having committed any crime or offence on board any British ship on the high seas or in any

foreign port or harbour, or if any person, not being a British subject, charged with having committed any crime or offence on board any British ship on the high seas, is found within the jurisdiction of any court of justice in her Majesty's dominions which would have had cognizance of such crime or offence if committed within the limits of its ordinary jurisdiction, such court shall have jurisdiction to hear and try the case, as if such crime or offence had been committed within such limits: Provided, that nothing contained in this section shall be construed to alter or interfere with the Act of the thirteenth year of her present Majesty, chapter ninety-six.

Legal procedure.

Jurisdiction in case of offences on board ship.

12 & 13 Vict. c. 96.

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18 & 19 VICTORIA. A. D. 1855.

Chapter XCIII.

An Act to amend certain Acts relating to the Court of Judicature of Prince of Wales Island, Singapore, and Malacca, and to the Supreme Courts of Judicature in India.

[*14th August 1855.*]

* * * * * * * * *

5. And whereas doubts have been entertained whether the provisions of the Act of the sixth George the Fourth, chapter eighty-five, respecting the grant of allowances to the judges of the Superior Courts in India on retirement, apply to cases where the required period of residence as a judge has been partly as a judge of one and partly as a judge of another of the said Supreme Courts: Be it enacted, that for the purpose of the said last-mentioned provisions residence in India as a judge of any of the said Supreme Courts (though such residence shall have been partly as a judge of one of the said Supreme Courts and partly as a judge of another of such Courts) shall be computed and reckoned as residence as a judge of the Supreme Court to which the judge shall belong at the time of his retirement: Provided always, that in the case of any judge retiring from the Supreme Court of Judicature at Fort William whose period of residence in India as a judge shall have been partly as a judge of the Supreme Court at Madras or Bombay, it shall not be lawful to grant to such judge any larger allowance than might have been granted if he had been during his whole period of residence a judge of the Supreme Court at Madras or Bombay, unless he shall have resided as a judge of the Supreme Court at Fort William for five years at the least.

6 Geo. 4. c. 85.

As to allowances to judges of the Supreme Courts in India on retirement.

18 & 19 VICTORIA. A. D. 1855.

Chapter CXIX.

An Act to amend the Law relating to the Carriage of Passengers by Sea.

[*14th August 1855.*]

Whereas it is expedient to amend "The Passengers Act, 1852": Be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present Parliament assembled, and by the authority of the same, as follows:

* * * * * * * * *

Power to the Governor General of India in Council, by any Act to be passed for that purpose, to adopt this Act for India, and to make rules respecting food, passengers, surgeons, &c.,

99. This Act shall not apply to any of the territories or places under the government of the East India Company: It shall, however, be lawful for the Governor General of India in Council, from time to time, by any Act or Acts to be passed for that purpose, to declare that this Act or any part thereof shall apply to the carriage of passengers upon any voyage from any ports or places within such territories, to be specified in such Act or Acts, to any other places whatsoever, to be also specified in such Act or Acts; and also in like manner to authorize the substitution, as respects such voyages, of other articles of food and provisions for those herein-before enumerated; and to declare the rule of computation by which the length of any such voyage shall be estimated; and to determine the persons or officers who in such territories shall be entitled to exercise or perform the powers, functions, or duties herein-before given to or imposed upon the emigration officers and officers of customs in the United Kingdom; and to authorize the employment on board any ship of a medical practitioner duly qualified by law to practise as a physician, surgeon, or apothecary within such territories; and to declare for the purposes of this Act the space necessary for passengers, and the age at which two children shall be considered equal to one statute adult, in ships that may clear out from any port or place within such territories; and also to declare in what manner, and before what authorities, and by what form of proceedings, the penalties imposed and the sums of money made recoverable by this Act shall be sued for and recovered within such territories, and to what uses such penalties shall be applied: And on the passing of such Indian Act or Acts, and whilst the same shall remain in force, all such parts of this Act as shall be adopted therein shall apply to and extend to the carriage of passengers upon such voyages as in the said Indian Act or Acts shall be specified. The provisions of such Indian Act shall be enforced in all her Majesty's possessions in like manner

and to declare in what manner penalties, &c. may be sued for and recovered.

Indian Act may be enforced in the

as the provisions of this Act may be enforced: Every such Indian Act shall be subject to disallowance and repeal, and shall in the same manner be transmitted to England, to be laid before both Houses of Parliament, as in the case of any other law made by the Governor General in Council.

colonies in like manner as this Act.

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END OF THE FIRST VOLUME.